

CALIFORNIA COASTAL COMMISSION

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49th Day: October 16, 2006
Hearing Opened: October 13, 2006
Staff: Robert S. Merrill
Staff Report: July 25, 2008
Hearing Date: August 8, 2008
Commission Action:

STAFF REPORT: APPEAL**DE NOVO**

APPEAL NUMBER: **A-1-DNC-06-037**

APPLICANTS: **J.H.P., L.L.C.**

LOCAL GOVERNMENT: County of Del Norte

DECISION: Approval with Conditions

PROJECT LOCATION: At 2400 Lake Earl Drive, approximately two miles northeast of Crescent City, Del Norte County (APN 110-020-62).

PROJECT DESCRIPTION
(As approved by County): Resubdivision of a 54-acre portion of a 134-acre parcel into 70 residential lots ranging in size from 0.47 acres to 3.12 acres.

PROJECT DESCRIPTION
(As amended de novo):: Resubdivision of a 45.5-acre parcel into 94 lots, including 91 residential lots ranging in size from approximately 3,000 square feet to half an acre and 3 open space lots incorporating all wetland habitat areas and associated 100-foot buffers.

APPELLANTS: Friends of Del Norte

SUBSTANTIVE FILE:
DOCUMENTS

1) Del Norte County Permit Application No. UP0640C;
2) Del Norte County Local Coastal Program.

SUMMARY OF STAFF RECOMMENDATION *DE NOVO*:
APPROVAL WITH CONDITIONS

Staff recommends that the Commission approve with conditions the coastal development permit for the proposed project. Staff believes that as conditioned, the development as amended for purposes of the Commission's *de novo* hearing will be consistent with the Del Norte County LCP.

For the purposes of *de novo* review by the Commission, the applicants have submitted additional information, amended the project description, and submitted a series of revised project plans that make changes to the originally proposed residential subdivision as approved by the County. The project revisions are primarily designed to address concerns raised in the appeal that the wetlands on the site were not adequately delineated and that therefore, the development as approved by the County did not provide sufficient habitat buffers between the wetland habitat and the buildable areas of the new residential lots to protect the wetland habitat. The new information submitted by the applicant included supplemental wetland delineation information. Commission Staff Senior Ecologist Dr. John Dixon conducted site visits and reviewed the supplemental wetland information and determined that the delineations adequately delineated wetlands on most of the Harbor Center Tract, but that additional site investigations and analysis would be needed to adequately delineate an approximately 16-acre area along the northeast side of the property, northeast of the main watercourse that traverses through the property.

The applicant decided to revise the project description and seek Commission approval of development on only the portions of the property where the wetland delineation has been completed and deemed adequate by Commission staff. The applicant first obtained a separate coastal development permit from Del Norte County to adjust the boundaries of the Harbor Center Tract and the applicant's adjoining three parcels in a manner that reconfigures the perimeter of the Harbor Center Tract so as only to include the adequately delineated area, reducing the Harbor Center Tract parcel from 54.7 acres to 45.5 acres. The applicant then submitted an amended project description for purposes of the Commission's *de novo* review of Appeal No. A-1-DNC-06-037. As amended, the proposed development involves resubdividing the newly reconfigured 45.5-acre Harbor Center Tract into 94 parcels, including 91 residential parcels ranging in size from approximately 3,000 square feet to half an acre. A total of 67 of the proposed parcels are slated for future development of single-family residences and 24 of the proposed parcels

are slated for future development of Town homes. To address concerns raised in the appeal about the potential for residential uses to encroach into the 100-foot-wide wetland buffer areas, the amended subdivision plan locates all of the wetland habitat and wetland buffer area on three separate open space parcels, Lots 92-94. To further enhance the effectiveness of the proposed wetland buffers, the applicant has also included provisions in the amended project description for fencing the buffer areas from residential areas, providing bio-filtration swales and sedimentation basins to treat stormwater runoff before runoff enters the buffer areas and wetlands, and imposing limitations on the use of the property through the subdivision conditions, covenants, and restrictions to be recorded against the property that would require the buffers and wetlands to be retained as undeveloped open space and place certain limitations on the keeping of pets and other animals on the property to reduce predation of wildlife within the habitat areas.

Staff is recommending several special conditions to further protect the wetland habitat at the site. Special Condition No. 2 would require that the applicant deed restrict the wetland and wetland buffer areas as open space. Special Condition Nos. 4-6 would require that the applicant also record offers to dedicate open space easements over the wetlands and buffers to enable an appropriate government or non-profit entity to take over management responsibilities for the habitat areas. Other recommended conditions would impose restrictions applicable to the residential lots and all common areas of the subdivision that would (a) prohibit the planting of invasive species that could invade the habitat and (b) limit lighting to avoid impacts to wildlife. In addition, the conditions would require implementation of the applicant's proposals to install buffer fencing along the boundaries of the buffer to help avoid human and pet intrusion into habitat areas and provide bio-filtration swales and desiltation basins to treat stormwater runoff before it drains into the wetland areas. The special conditions would require that the stormwater runoff facilities have sufficient capacity to process runoff from an 85th percentile storm event.

Staff believes that the subdivision development as proposed and conditioned to preclude development within the wetland habitat and within 100-foot buffer areas surrounding the wetlands, install buffer fencing and stormwater treatment facilities, preclude the planting of invasive plants, restrict lighting, and record offers to dedicate the habitat and buffer areas to a managing entity, will be sited and designed to prevent impacts which would significantly degrade the wetland habitat and will be compatible with the continuance of such habitat areas consistent with the wetland and environmentally sensitive habitat protection policies of the certified Del Norte County LCP.

Staff believes the proposed 94-lot subdivision is sited in an appropriate location, as the site is within the urban limit line as designated in the LCP, will be served by municipal sewer and water services, and is not located in an area where the density of development will affect views to and along the coast. The subject property is located more than a mile away from Lake Earl coastal lagoon and the open ocean and is separated from both by

intervening parcels, and dense vegetation. The development will also be largely screened from view from Lake Earl Drive, the main public thoroughfare serving the area.

As proposed, the subdivision will provide for public access use. A public trail will be established that will run from the entrance to the subdivision off of Lake Earl Drive along the entry drive and along the edge of the 100-foot buffer on the western side of the principal wetland that extends through the property. The end of the trail is located near the end of an existing dirt road that would allow for future extension of the trail to the currently undeveloped lands to the northeast. The trail will be served by a 5-car public access parking lot and four public viewing areas will be established along the trail. The trail will be developed in phases corresponding to the phasing of the development of subdivision roads and infrastructure. Staff is recommending Special Condition No.3 requiring that an offer to dedicate the trail, viewing areas, and public access parking area to an appropriate governmental or non-profit entity capable of managing the access facilities be recorded. In addition, staff is recommending Special Condition No. 15, which among other requirements, requires that the principal streets of the subdivision be made available for public use and precluding gating of the subdivision. Staff believes that as conditioned, the proposed development is fully consistent with the public access policies of the Coastal Act.

To ensure that the responsibilities for maintaining and managing the habitat and buffer areas, public access facilities, buffer fencing, and stormwater treatment facilities are clearly established, Staff recommends Special Condition No. 7 requiring the submittal of a management and maintenance program for the review and approval of the Executive Director. The program must identify entities responsible for management and maintenance, identify management and maintenance activities, and establish a funding program for these activities.

As conditioned, staff believes that the development is consistent with the policies of the certified Del Norte County LCP and the public access policies of the Coastal Act. Therefore, as conditioned, staff recommends that the Commission find that the development as conditioned is consistent with the certified Del Norte County LCP and the public access policies of the Coastal Act.

The Motion to adopt the Staff Recommendation of Approval is found on page 8.

STAFF NOTES

1. Standard of Review

The Coastal Commission effectively certified the County of Del Norte's LCP in 1983. Pursuant to Section 30603(b) of the Coastal Act, after effective certification of an LCP, the standard of review for all coastal permits and permit amendments for development located between the first public road and the sea is the standards of the certified LCP and the public access and recreation policies of the Coastal Act.

2. Procedure

On October 13, 2006, the Coastal Commission found that the appeal of the County of Del Norte's approval of CDU No. 9-2006 for the subject development raised a substantial issue with respect to the grounds on which the appeal had been filed, pursuant to Section 30625 of the Coastal Act and Section 13115 of Title 14 of the California Code of Regulations. As a result, the County's approval is no longer effective, and the Commission must consider the project *de novo*. The Commission may approve, approve with conditions (including conditions different than those imposed by the County), or deny the application. Testimony may be taken from all interested persons at the *de novo* hearing.

3. Amended Project Description Submitted by Applicant for *de novo* Review

For the purposes of *de novo* review by the Commission, the applicants have amended the project description and submitted a series of revised project plans that make changes to the residential development approved by the County. The most recent plans incorporating all project revisions are dated April 1, 2008.

The project revisions are designed to address the principal issues raised in the appeal concerning the protection of wetlands. The appellants contended that the wetland surveys that were performed for the site prior to County approval were inadequate, omitting certain wetland areas, and that therefore the wetland and buffer development restrictions applied by the County were not sufficient to protect all of the wetlands and environmentally sensitive habitat areas.

Evidence in the local record suggests that the wetland delineation process was not fully completed prior to County approval. In acting on the substantial issue portion of the appeal, the Commission found that substantial questions were raised as to whether the full extent of the wetlands on the property was known at the time of County approval, and whether the wetland buffers would be adequate in other ways. As approved the majority of new lots extended into the wetland areas of the site. In many cases, the buffer required by the County encompassed significant portions of the created lots, limiting the usable area for the residents, and increasing the likelihood that landowners would seek to site landscaping, patios, yard areas, and other residential uses in the required buffer area. This concern was exacerbated by the fact that the County did not require that the

boundary of the buffer be fenced or physically marked on the ground to help future residents understand where the limits of the usable portion of their lots exist. The Commission therefore found that the appeal raised a substantial issue of conformance of the project as approved with the wetland protection provisions of the certified LCP.

The Commission continued the *de novo* portion of the hearing to allow the applicant to provide to the Commission certain information that would enable the Commission to evaluate the consistency of the project with the policies of the certified LCP. The principal information the Commission required was a final wetland delineation report prepared by a qualified wetland biologist to Coastal Act and LCP standards that include a final site map depicting the full extent of all wetlands on the property and the full extent of buffer area needed to protect the wetlands.

Since the October 2006 Commission meeting when the Commission found that the appeal raised a substantial issue, the applicant has employed two different consultants to prepare a revised wetland delineation for the site. Commission staff, including Senior Ecologist Dr. John Dixon has performed site visits with the applicant's consultants and reviewed wetland delineation reports submitted by the consultants. Dr. Dixon determined that the last submitted delineation report dated February 25, 2008, and prepared by North Fork Associates adequately delineated the wetlands on the portions of the Harbor Center Tract site that immediately surround the main drainage channels that extend through the site as well as the area to the southwest of the drainage channels, but that additional site investigations and analysis would be needed to adequately delineate other portions of the Harbor Center Tract and the larger Bay Meadows property of the which the Harbor Center Tract is a part.

The applicant has decided to seek Commission approval of development on the portion of the property where the wetland delineation has been completed and deemed adequate by Commission staff before pursuing further wetland delineation on the remainder of the Bay Meadows property. Therefore, the applicant has revised the project description of Appeal No. A-1-DNC-06-037 to limit the scope of development to the portions of the Harbor Center Tract site that immediately surround the main drainage channels that extend through the site as well as the area to the southwest of the drainage channels where the wetland delineation work has been completed. In the future, when the wetland delineation work has been completed elsewhere on the property, the applicant has indicated he will likely seek separate coastal development authorization for future development of that area of the site from the County. To enable only the currently delineated area to be proposed for a residential subdivision, the applicant has in the meantime applied for and received a coastal development permit from Del Norte County to adjust the boundaries of the Harbor Center Tract and the other three parcels that comprise the Bay Meadows area in a manner that reconfigures the Harbor Center Tract to coincide with the area where wetland delineations have been completed. Exhibit 6 shows the configuration of the four parcels before and after the recent boundary line adjustment approved by the County. The Harbor Center Tract parcel was reduced in size from 54.7 acres to 45.5 acres. The parcel was reconfigured in a manner that transferred an

approximately 16.1-acre area northeast of the main drainage through the site from the Harbor Center Tract to adjoining Parcel 1, and transferred an approximately 6.4-acre triangular-shaped area to the north of the former northern boundary of the Harbor Center Tract that includes a portion of the drainage channels and additional area to the southwest of the drainage channels from Parcel 1 to the Harbor Center Tract.

As revised, the amended project description for A-1-DNC-06-037 proposes to resubdivide the newly reconfigured 45.5-acre Harbor Center Tract into 94 parcels, including 91 residential parcels ranging in size from approximately 3,000 square feet to half an acre. A total of 67 of the proposed parcels are slated for future development of single-family residences and 24 of the proposed parcels are slated for future development of Town homes. Three of the parcels to be created, Lots 92-94, would be open space parcels containing all of the existing wetlands at the site and associated 100-foot buffers. The project description does not seek authorization for development of the residences themselves; future development of the residences would require either separate coastal development permits or determinations that the residences are excluded from coastal development permit requirements under the terms and conditions of a Categorical Exclusion Order granted by the Commission to the County after certification of the LCP, which excludes certain qualifying single family residential development from coastal development permit requirements. To address concerns raised in the appeal about the potential for residential uses to encroach into the 100-foot-wide wetland buffer areas, the revised plan for the resubdivision locates all of the wetland and wetland buffer area on three separate open space parcels, as noted above. To further enhance the effectiveness of the proposed wetland buffers, the applicant has also included provisions in the amended project description for fencing the buffer areas from residential areas, providing bio-filtration swales and sedimentation basins to treat stormwater runoff before runoff enters the buffer areas and wetlands, and imposing limitations on the use of the property through the subdivision conditions, covenants, and restrictions to be recorded against the property that would require the buffers and wetlands to be retained as undeveloped open space and place certain limitations on the keeping of pets and other animals on the property to reduce predation of wildlife within the habitat areas.

More specifically, as amended for purposes of the Commission's *de novo* review of the project, the proposed project description involves: (1) the resubdivision of the property into 94 parcels, including 3 open space lots, 67 lots for single-family detached homes, and 24 lots for town homes; (2) the construction of street improvements that involve an entry drive from Lake Earl Drive connecting to a loop system with associated connector streets and alleyways; (3) the installation of underground utilities, including water, sewer, electrical, telephone, and cable television lines; (4) the installation of bio-filtration swales and desiltation(sedimentation) basins to, increase infiltration, remove sediment and other pollutants from the runoff, and control the release of stormwater into the drainage and other wetlands of the site; (5) the installation of a public access trail that will provide public access to the site from Lake Earl Drive into the project site and along

the wetlands area that extends through the site along the northeast boundary of the Harbor Center Tract which will be complemented by four approximately 150-square-foot observation areas and a five-space public access parking lot; (6) the installation of four private parks to serve the recreational needs of subdivision residents; and (7) the installation of buffer fencing to clearly demarcate the edge of the 100-foot-wide wetland buffers and help avoid encroachment of residential uses into the buffer areas.

The amended project description and supporting information address issues raised by the appeal where applicable, and provide additional information concerning the amended project proposal that was not a part of the record when the County originally acted to approve the coastal development permit.

4. Addendum

This staff report does not contain the complete findings for approval of the project. Staff was unable to complete the findings prior to the mailing of the staff report. However, staff will present the remaining portion of the recommended findings for approval of the project as part of the addendum at the Commission meeting. The findings contained in both this staff report and its addendum will reflect the basis for approval with conditions.

I. MOTION, STAFF RECOMMENDATION *DE NOVO*, AND RESOLUTION:

Motion:

I move that the Commission approve Coastal Development Permit No. A-1-DNC-06-037, subject to conditions.

Staff Recommendation of Approval:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve Permit:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the certified Del Norte County LCP and the public access policies of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either: 1)

feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment; or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS: See Attachment A.

III. SPECIAL CONDITIONS:

1. DEED RESTRICTION

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

2. OPEN SPACE AND STORMWATER RUNOFF TREATMENT AREA RESTRICTIONS

A. Open Space Restriction – Wetlands and Buffer North of A Street (Lot 92)

No development, as defined in Section 30106 of the Coastal Act, shall occur within Lot 92 consisting of the riparian/wetland areas and surrounding 100-foot buffer areas north of “A” Street as generally depicted within the boundaries of the Harbor Center Tract on the “Concept Layout Plan” prepared by Robert H. Foster Consultants, dated July 16, 2008, and included as Exhibit 8 of this staff report and

as described and depicted in an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit except for:

- i. The following development, if approved by the Coastal Commission as an amendment to this coastal development permit: (a) planting of native vegetation and restoration of environmentally sensitive habitat, (b) removal of debris, sediment, and unauthorized structures, (c) installation and maintenance of future trail and road connections to the adjoining property to the northeast along the alignments of the two existing gravel and/or dirt roads in the locations generally shown on the "Concept Layout Plan," prepared by Robert H. Foster Consultants, dated July 15, 2008, and (d) fuel modification.

B. Open Space Restriction – Wetlands and Buffer South of A Street (Lot 93)

No development, as defined in Section 30106 of the Coastal Act, shall occur within Lot 93 consisting of the riparian/wetland areas and surrounding 100-foot buffer areas south of "A" Street as generally depicted within the boundaries of the Harbor Center Tract on the "Concept Layout Plan" prepared by Robert H. Foster Consultants, dated July 16, 2008, and included as Exhibit 8 of this staff report and as described and depicted in an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit except for:

1. The following development, if approved by the Coastal Commission as an amendment to this coastal development permit: (a) planting of native vegetation and restoration of environmentally sensitive habitat, (b) removal of debris, sediment, and unauthorized structures, and (c) fuel modification.

C. Open Space Restriction – Wetlands and Buffer At Southwestern Corner of Subdivision (Lot No. 94)

No development, as defined in Section 30106 of the Coastal Act, shall occur within Lot 94 consisting of the riparian/wetland areas and surrounding 100-foot buffer areas at the southwestern corner of the subdivision south of Lot Nos. 16-24 as generally depicted within the boundaries of the Harbor Center Tract on the "Concept Layout Plan" prepared by Robert H. Foster Consultants, dated July 16, 2008, and included as Exhibit 8 of this staff report and as described and depicted in an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit except for:

1. The following development, if approved by the Coastal Commission as an amendment to this coastal development permit: (a) planting of native vegetation and restoration of environmentally sensitive habitat, (b) removal of debris, sediment, and unauthorized structures, and (c) fuel modification.

D. Stormwater Runoff Treatment Areas

No development, as defined in Section 30106 of the Coastal Act, shall occur within the areas to be improved with stormwater runoff treatment facilities, including the desiltation basins and bio-filtration drainage swales designed to treat stormwater runoff from all streets and residential lots within the subdivision as generally depicted on the "Concept Layout Plan" prepared by Robert H. Foster Consultants, dated July 16, 2008, and as specifically depicted in the final Stormwater Runoff Treatment Facilities Plan approved by the Executive Director pursuant to Special Condition No. 10 of this permit except for:

1. The following development approved by Coastal Development No. A-1-DNC-06-037: (a) grading and installation of desiltation basins and bio-filtrations swales and associated culverts and basin outfalls; (b) maintenance of the desiltation basins, bio-filtration swales, and associated culverts and basin outfalls; and (c) installation of underground utilities.
2. The following development, if approved by the Coastal Commission as an amendment to this coastal development permit: (a) planting of additional vegetation within the desiltation basins and bio-filtration swales (b) repairs and improvements of the desiltation basins, bio-filtration swales, and associated culverts and basin outfalls; and (c) installation of additional underground utilities.

E. PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOI FOR THIS PERMIT, the applicant shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the portion of the subject property affected by each subsection of this condition

3. OFFER TO DEDICATE TRAIL, PUBLIC ACCESS OBSERVATION AREAS, AND PUBLIC PARKING AREA EASEMENT

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall execute and record document(s) in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public

agency or non-profit entity acceptable to the Executive Director, an easement for public pedestrian and passive recreational use of (1) the trail corridor and the observation areas along the trail to be built with each phase of the trail as generally depicted on the "Concept Layout Plan" prepared by Robert H. Foster Consultants, dated July 15, 2008, and included as Exhibit 8 of this staff report, and (2) a 5-car visitor/trail parking area for users of the trail corridor as generally depicted in Exhibit 8 and described in Special Condition No. 8 of this permit. The recorded document(s) shall include legal descriptions of both the permittee's entire parcel(s) and the easement areas. The recorded document(s) shall reflect that development in the offered area is restricted as set forth in the Special Conditions of this permit. The offer shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording. The applicant's proposal for the lands to be offered for a public trail, observations areas, and public parking lot is generally depicted on the "Concept Layout Plan," prepared by Robert H. Foster Consultants, dated July 16, 2008, and included as Exhibit 8 of this staff report. The lands identified in this dedication shall be maintained in accordance with the final maintenance and funding program approved by the Executive Director in accordance with Special Condition No. 7.

4. **OFFER TO DEDICATE EASEMENT OVER WETLAND AND BUFFER AREA NORTH OF A STREET (LOT 92)**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director, for review and approval, a proposed document(s) irrevocably offering to dedicate to a public agency or non-profit entity acceptable to the Executive Director, an easement over the areas identified below for wetland habitat protection and enhancement. Once the documents irrevocably offering to dedicate the areas identified below are approved, and also **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit evidence that it has executed and recorded those documents, completing that offer to dedicate. The land shall be offered for dedication subject to the restrictions on the use of that land set forth in the special conditions of this permit, and the offer to dedicate shall reflect that fact. The offer shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed but subject to the deed restrictions required by Special Condition No. 2. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording. The entirety

of the following land shall be offered for dedication: Lot 92 consisting of the riparian/wetland areas and surrounding 100-foot buffer areas north of "A" Street as generally depicted within the boundaries of the Harbor Center Tract on the "Concept Layout Plan," prepared by Robert H. Foster Consultants, dated July 16, 2008, and included as Exhibit 8 of this staff report and as described and depicted in an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit.

5. **OFFER TO DEDICATE EASEMENT OVER WETLAND AND BUFFER AREA SOUTH OF A STREET (LOT 93)**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director, for review and approval, a proposed document(s) irrevocably offering to dedicate to a public agency or non-profit entity acceptable to the Executive Director, an easement over the areas identified below for wetland habitat protection and enhancement. Once the documents irrevocably offering to dedicate the areas identified below are approved, and also **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit evidence that it has executed and recorded those documents, completing that offer to dedicate. The land shall be offered for dedication subject to the restrictions on the use of that land set forth in the special conditions of this permit, and the offer to dedicate shall reflect that fact. The offer shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed but subject to the deed restrictions required by Special Condition No. 2. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording. The entirety of the following land shall be offered for dedication: Lot 93 consisting of the riparian/wetland areas and surrounding 100-foot buffer areas south of "A" Street as generally depicted within the boundaries of the Harbor Center Tract on the "Concept Layout Plan," prepared by Robert H. Foster Consultants, dated July 16, 2008, and included as Exhibit 8 of this staff report and as described and depicted in an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit.

6. **OFFER TO DEDICATE EASEMENT OVER WETLAND AND BUFFER AREA AT SOUTHWESTERN CORNER OF SUBDIVISION (LOT NO. 94)**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director, for review and approval, a proposed document(s) irrevocably offering to dedicate to a public agency or non-

profit entity acceptable to the Executive Director, an easement over the areas identified below for wetland habitat protection and enhancement. Once the documents irrevocably offering to dedicate the areas identified below are approved, and also **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit evidence that it has executed and recorded those documents, completing that offer to dedicate. The land shall be offered for dedication subject to the restrictions on the use of that land set forth in the special conditions of this permit, and the offer to dedicate shall reflect that fact. The offer shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed but subject to the deed restrictions required by Special Condition No. 2. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording. The entirety of the following land shall be offered for dedication: Lot 94 consisting of the riparian/wetland areas and surrounding 100-foot buffer areas at the southwestern corner of the subdivision south of Lot Nos. 16-24 as generally depicted within the boundaries of the Harbor Center Tract on the "Concept Layout Plan," prepared by Robert H. Foster Consultants, dated July 16, 2008, and included as Exhibit 8 of this staff report and as described and depicted in an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit.

7. **ACCESS FACILITIES, HABITAT, BUFFER FENCING, AND STORMWATER RUNOFF TREATMENT FACILITIES MANAGEMENT AND MAINTENANCE**
 - A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall provide for the review and approval by the Executive Director a management and maintenance program for the proposed public trail, public viewing areas, public trail parking area, public access signage, wetland habitat and buffer open space areas, wetland buffer fencing, stormwater runoff desiltation basin and bio-filtration swales and associated structures and appurtenances for all of the foregoing. The final program, which may be incorporated in whole or in part in the final habitat management plan, shall include the following:
 1. **Identification of All Entities Responsible for Management and Maintenance.** In general, the Homeowners Association shall maintain it until such time as any easement required to be offered by this permit is accepted. Where an easement is accepted by an entity in accordance with the terms and conditions of this permit, the holder of the easement shall be responsible for management and maintenance of the facilities within the easement or land area unless the arrangements between the Homeowners

Association and the easement holder dictate that the Homeowners Association shall retain all or part of said management and maintenance responsibility. All management and maintenance shall occur in accordance with the approved management and maintenance program.

2. Identification of Management and Maintenance Activities and Associated Funding Program. The management and maintenance program shall include identification of management and maintenance activities including, and funding program that will provide for the actual cost of:
 - i. maintenance and periodic repair and replacement of the public trail, public observation areas, and associated appurtenances including, but not limited to, landscaping, trail routes and surfaces, fences, benches, signage and interpretive displays, and appropriate domestic pet controls and services;
 - ii. maintenance and periodic repair and replacement of the public access parking area and associated appurtenances including, but not limited to, landscaping, parking lot routes and surfaces, fences, and signage;
 - iii. on-going habitat protection and maintenance including the removal of trash and debris regular exotic plant removal; and
 - iv. maintenance and periodic repair and replacement of wetland habitat buffer fencing; and
 - v. maintenance of stormwater runoff treatment facilities including all desiltation basins, bio-filtration swales, culverts and associated appurtenances required to protect on-site habitat and ocean waters.
3. Legal Authority. The program shall demonstrate the legal ability of the assigned entities to undertake the development and maintain said development in accordance with the requirements of this permit.

- B. The permittee shall undertake development in accordance with the approved final program. Any proposed changes to the approved final program shall be reported to the Executive Director. No changes to the approved final program shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

8. PUBLIC ACCESS AND RECREATION REQUIREMENTS AND IMPROVEMENTS

- A. Public Access Requirements

1. **Streets, Roads and Public Parking**

All streets, roads and parking shall be provided as described on the revised subdivision plan entitled, "Concept Layout Plan," prepared by Robert H. Foster Consultants, dated July 16, 2008. The publicly and privately maintained streets and public parking area identified on the above Concept Layout Plan as "A Street," "B Street," "C" Street, and "Visitor /Trail Parking" shall be for public street and parking purposes including, but not limited to, pedestrian, bicycle and vehicular access. The five-car visitor parking area shall be provided as described in the applicant's July 1, 2008 letter to the Commission providing a narrative that revises and supplements the project description. All of the streets and public parking areas identified above shall be open for use by the general public 24 hours per day, with the exception of standard limited parking restrictions for street sweeping/maintenance purposes. Long term or permanent physical obstruction of these streets and public parking areas shall be prohibited. All public entry controls (e.g. gates, gate/guard houses, guards, signage, etc.) and restrictions on use by the general public (e.g. preferential parking districts, resident-only parking periods/permits, etc.) associated with these streets and public parking area shall be prohibited.

2. Public Trail

No development, as defined in Section 30106 of the Coastal Act, shall occur within the public trail corridor as approved by the Executive Director pursuant to paragraph C of this condition except for the following development: grading and construction necessary to construct the trails and appurtenances (e.g. signs, interpretive displays, benches, trash receptacles, protective fencing), vegetation removal and planting, drainage devices, erosion control and repair, maintenance and repair activities pursuant to and in conjunction with the management and maintenance program detailed in Special Condition 7 and as required below. Development that diminishes permanent public access shall be prohibited. The public pedestrian trail shall be a combination of a 5-foot-wide paved sidewalk along the north side of A Street and a 5-foot-wide trail with a decomposed gravel or similar surface within a 10-foot wide corridor. The public access trail shall be open to the general public for passive recreational use. Signage shall be installed that mark the trail and clearly indicates the availability of the trail for public access use. The signage program shall specifically include, but not be limited to, the installation of a sign adjacent to the trail near the intersection of the entrance street to the subdivision and Lake Earl Drive, and a sign placed at the location where the trail extends northward from "A Street."

The lands identified in this restriction shall be maintained in accordance with the final maintenance and funding program approved by the Executive Director in accordance with Special Condition 4.

3. Public Access Observation Areas

The four public access observation areas identified as “Wildlife Observation Areas” and “Trails End Facilities,” shown on the revised subdivision plan entitled, “Concept Layout Plan,” prepared by Robert H. Foster Consultants, dated July 16, 2008, shall be open to the general public and maintained for passive public access use. No development, as defined in Section 30106 of the Coastal Act, shall occur within the public access observation areas as identified, except for the following development: grading and construction necessary to construct the public access observation areas, vegetation removal and planting, drainage devices, erosion control and repair, maintenance and repair activities pursuant to and in conjunction with the management and maintenance of the parks. As proposed, each observation shall be at least 15 feet wide by 10-feet deep and shall be improved with a decomposed granite or similar surface and/or landscaping with native plants and a sign indicating the availability of the area for public access use.

- B. The permittee shall ensure the construction of the public access trail, the public access observation areas, and the public access parking area as described in the revised project description submitted in the applicant’s July 1, 2008 letter to the Commission as modified by the special conditions of this permit. All public access and passive recreation improvements for observation area and trail purposes shall be completed and open for use by the general public in accordance with the final construction phasing plan approved by the Executive Director pursuant to Special Condition No. 11 of this permit. Furthermore, the facilities identified in this condition shall be maintained in accordance with the final maintenance and funding program approved by the Executive Director in accordance with Special Condition No. 7 of this permit.
- C. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit revised, final, detailed plans of the public access trail, the public access observation areas, and the public access parking area for the review and approval by the Executive Director. Plans shall identify all structures including location, dimensions, materials and colors, and use as well as sign and interpretive display text and graphics, size and orientation. All plans shall be of sufficient scale and detail to verify the location, size and content of all signage, and the location and orientation, size, materials and use of structures during a physical inspection of the premises. Plans shall be consistent with the

modifications required in all other special conditions of this permit. The final plans shall also comply with the following:

1. Public Trail, Public Access Observation Areas, and Public Access Parking Plan: The final plans submitted for review and approval to the Executive Director shall include detailed plans for improvement of the public access trail, the adjoining public access observation areas, and the public access parking area. The detailed final trail improvement plans submitted shall be in substantial conformance with the revised project description submitted in the applicant's July 1, 2008 letter to the Commission and the "Concept Layout Plan," prepared by Robert H. Foster Consultants, dated July 16, 2008 identified above and as modified by the conditions of this permit. Said plan(s) shall include (a) trail alignment, width, surfaces, materials, recreational appurtenances such as any proposed benches, refuse containers, and the fencing between the trail and habitat buffer areas; (b) public access observation area layout and dimensions, surface and landscaping materials, recreational appurtenances such as any proposed benches, refuse containers, and the fencing between the observation area and habitat buffer areas; and (c) public access parking area driveway and parking stall surfaces, materials, and striping.
 3. Sign Plan: The final plans submitted for review and approval to the Executive Director shall include a detailed signage plan that directs the public to the public trail and public passive recreation opportunities on the project site. Signs shall invite and encourage public use of access opportunities and shall identify and direct the public to their locations, including the four proposed public access observation areas, the public access parking area, and the streets available for public use. Signage shall be visible from the "A Street/Lake Earl Drive intersection area and from internal circulation roads and public access areas and parking. Signs shall also identify and explain the wetland habitat and buffer areas adjacent to the trail, note the ecological significance of the wetland habitat, and identify restrictions against public entry to the habitat and buffer areas. Signs and displays not explicitly permitted in this document shall require an amendment to this permit unless the Executive Director determines that no amendment is required.
- D. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

9. FINAL BUFFER FENCING PLANS

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director, a final buffer fencing plan.

1. The plan shall demonstrate that:
 - (a) A five-foot-high chain link or solid wooden fence designed to contain domestic animals within the residential development and exclude such animals from the wetland habitat on the site and the adjoining wildlife habitat area managed by the California Department of Fish & Game shall be installed as proposed by the applicant along the boundary of the 100-foot buffer protecting the riparian/wetland areas at the southwestern corner of the subdivision south of Lot Nos. 16-24 and along the westerly property boundary of the Harbor Center Tract north of Lot 16 to the proposed desiltation basin near the northwest end of the Harbor Center Tract, as shown on the "Concept Layout Plan," prepared by Robert H. Foster Consultants, dated July 16, 2008, and included as Exhibit 8 of this staff report;
 - (b) A three-foot-high wooden rail fence designed to identify the boundary of the wetland habitat buffer areas on open space Lots 92 and 93 shall be installed along western boundary of Lot 92 except at the two desiltation basins proposed to be located near the northwest end of the Harbor Center Tract and eastern side of the Harbor Center Tract where the fence shall be installed so as to include the desiltation basins with the open space lots as shown on the "Concept Layout Plan," prepared by Robert H. Foster Consultants, dated July 16, 2008, and included as Exhibit 8 of this staff report;
 - (c) The three-foot-high wooden rail fence described above shall be designed to allow for the free ingress, egress and traversal of the habitat areas of the site by wildlife.
2. The plan shall include, at a minimum, the following:
 - (a) A detailed site plan of the development site showing the exact location of the buffer fencing; and

- (b) Design detail exhibits showing the final design, height and materials of all fences.

- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

10. FINAL GRADING, DRAINAGE, AND STORMWATER RUNOFF TREATMENT FACILITIES PLANS

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit for review and written approval of the Executive Director, a final stormwater runoff treatment facilities plan that substantially conforms with the Preliminary Drainage and Storm Water Treatment plan submitted by the applicant as shown in Exhibit 10 of the staff report and in the “Concept Layout Plan,” prepared by Robert H. Foster Consultants, dated July 16, 2008 except that.
 - 1. The plans shall demonstrate that:
 - (a) All stormwater runoff from streets, residential lots, all other lands of the Harbor Center Tract except for the required open space lands of Lots 92, 93, and 94 containing the wetland habitat and/or wetland buffer areas shall be directed to either a roadside or backyard bio-filtration swale and ultimately into a desiltation basin before being released into the wetland areas of the site;
 - (b) The bio-filtration swales shall be planted with native vegetation consistent with the landscaping restrictions of Special Condition No. 15; and
 - (c) The stormwater runoff facilities shall be designed to treat, infiltrate or filter the amount of storm water runoff produced by all storms up to and including the 85th percentile, 24-hour storm event.
 - 2. The plan shall include, at a minimum, the following:
 - (a) A detailed site plan of the development site showing the exact location of all stormwater runoff facilities;

- (b) Sections and detail exhibits of the proposed bio-filtration swales, desiltation basins, and appurtenant drainage facilities;
 - (c) A final grading and drainage plans showing the topography of the site as graded and the direction of flow of stormwater runoff from all of the Harbor Center Tract except from within the wetland habitat and wetland buffer areas; and
 - (d) Evidence that the stormwater runoff facilities will have the capacity to treat, infiltrate or filter the amount of storm water runoff produced by all storms up to and including the 85th percentile, 24-hour storm event.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

11. CONSTRUCTION/DEVELOPMENT PHASING

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit a final construction/development phasing plan for review and approval by the Executive Director, which shall conform to the following:
 - 1. The plan shall demonstrate that:
 - (a) All roads and infrastructure needed to serve all of the residential lots included in a particular development phase shall be completed prior to occupancy of the residences within that phase;
 - (b) All stormwater runoff treatment facilities needed to serve all of the roads, lots, and other lands within a particular development phase shall be completed shall be completed prior to occupancy of the residences within that phase;
 - (c) The public access parking area approved pursuant to Special Condition No. 8 shall be completed and open for public use prior to recordation of the final subdivision map for the first phase of the development;
 - (d) The public access trail approved pursuant to Special Condition No. 8 shall either be completed and opened for public use in its entirety prior to

recordation of the final subdivision map for the first development phase of the subdivision or completed and opened for public use in phases integrated into the phasing of the subdivision. All portions of the public access trail located adjacent to or across the street from residential lots associated with a particular phase of the subdivision shall be completed and opened for public use prior to occupancy of the residences within that phase;

- (e) The wetland buffer fencing approved pursuant to Special Condition No. 9 shall either be completed in its entirety prior to recordation of the final subdivision map for the first development phase of the subdivision or completed in phases integrated into the phasing of the subdivision. All portions of the approved buffer fencing located adjacent to or across the street from residential lots associated with a particular phase of the subdivision shall be completed prior to occupancy of the residences within that phase;

2. The plan shall include, at a minimum, the following:

- (a) A site plan showing the boundaries of each development phase and the public access parking, public access trail improvements, stormwater runoff treatment facilities, wetland buffer fencing improvements to be developed in each development phase; and
- (b) A narrative description of the portions of the public access parking, public access trail improvements, stormwater runoff treatment facilities, and wetland buffer fencing improvements to be completed in each development phase

B. The permittee shall undertake development in accordance with the approval final construction/development phasing plans. Any proposed changes to the approved final construction/development phasing plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

12. Final Construction Plans

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a final grading and construction plans plan for review and approval by the Executive Director. The plans shall be consistent with terms

and conditions of approval of Coastal Development Permit No. A-1-DNC-06-037 and shall demonstrate that (1) no wetland fill will be placed for any development, including but not limited to the improvement of the existing road crossing of the wetlands and (2) the improvement of the intersection of the entrance road to the subdivision, A Street, with Lake Earl Drive shall not encroach into the 100-foot wetland buffer required by Special Condition No. 2A.

- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

13. EROSION CONTROL PLAN

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, a final Erosion Control Plan that conforms to the requirements of this permit. The Erosion Control Plan shall include written descriptions and site plans, as necessary, to describe the non-structural and structural erosion, sediment and polluted runoff controls to be used during project construction consistent with the requirements of this permit. In addition, the Erosion Control Plan shall include the following requirements:

1. The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.
2. The plan shall specify that should grading take place during the rainy season (October 16 – April 15) the permittee shall install or construct temporary sediment basins (including debris basins, desiltation basins or silt traps), temporary drains and swales, sand bag barriers, silt fencing, stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes and close and stabilize open trenches as soon as possible. Major structural erosion measures such as basin traps or swales shall be required on the project site prior to or concurrent with the initial grading operations (or, if grading begins during the dry season, prior to the onset of the rainy season) and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. Smaller temporary erosion controls, such as sand bag barriers, silt fencing and geofabric covers shall be stockpiled for the duration of the rainy season and these erosion control measures shall be in place any time the probability of rain

in the five day forecast is 40% or greater. All sediment should be retained on-site unless removed to an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.

3. The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days during the dry season, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume. If grading or site preparation cease during the rainy season, the requirements under Condition 13.A.2 above must be maintained until the project is completed or the site restored to original conditions.
- B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

14. CONSTRUCTION STAGING AREA AND FENCING

- A. All construction plans and specifications for the project shall indicate that impacts to all wetlands and buffer areas depicted on Exhibit 8 of the staff report shall be avoided and that the California Coastal Commission has not authorized any impact to such wetlands or buffer areas. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a final construction staging and fencing plan for the review and approval of the Executive Director which indicates that the construction in the construction zone, construction staging area(s) and construction corridor(s) shall avoid impacts to all wetlands and buffer areas depicted on Exhibit 8. The plan shall include the following requirements and elements:
1. Prior to commencement of construction, temporary barriers shall be placed at the limits of grading adjacent to wetlands. Solid physical barriers shall be used at the limits of grading adjacent to all wetlands. Barriers and other work area demarcations shall be inspected by a qualified biologist to assure that such barriers and/or demarcations are installed consistent with the requirements of this permit. All temporary barriers, staking and fencing shall be removed upon completion of construction.

2. No grading, stockpiling or earth moving with heavy equipment shall occur within wetlands or their designated buffers.
 3. No construction equipment shall be stored within any wetlands or their buffers.
 4. The plan shall demonstrate that:
 - a. Construction equipment, materials or activity shall not occur outside the staging area and construction zone and corridors identified on the site plan required by this condition; and
 - b. Construction equipment, materials, or activity shall not be placed in any location that would result in impacts to wetlands;
 5. The plan shall include, at a minimum, a site plan that depicts:
 - a. limits of the staging area(s);
 - b. construction corridor(s);
 - c. construction site; and
 - d. location of construction fencing and temporary job trailers with respect to existing wetlands and sensitive habitat
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

15. **LANDSCAPE REQUIREMENTS**

- A. All areas disturbed and/or denuded by the development, other than areas approved for hardscape or other development that is incompatible with re-vegetation, shall be re-vegetated and maintained to protect habitat and to prevent erosion into habitat areas, wetlands, and coastal waters. Such re-vegetation shall occur in accordance with all requirements of the special conditions of this permit, including but not limited to Special Conditions 13 and 15B and C. All required plantings shall be maintained in good growing condition throughout the life of the project, and whenever necessary, shall be replaced with new plant materials that conform to the requirements of the special conditions of this permit.
- B. All landscaping on the private residential lots within the Harbor Center Tract, within the required public access observation areas, along the public access trail, within the private parks within the subdivision, and along the streets and roads of the subdivision, (including temporary erosion control and final landscaping) for the entire development covered by this permit shall be of plants native to the North Coast of California and appropriate to the natural habitat type or non-native

plants that are non-invasive and on the “Approved Plant List for Non-Habitat/Non-Buffer Areas” to be approved by the Executive Director pursuant to this special condition. No plant species listed as problematic and/or invasive by the California Native Plant Society, California Exotic Pest Plant Council, or as may be identified from time to time by the State of California, or any plant species listed as a ‘noxious weed’ by the State of California or the U.S. Federal Government shall be utilized anywhere within the proposed development area, including the landscaping within the private residential lots of the Harbor Center Tract, within public access areas, along the streets and roads, and within the private park areas.

- C. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, subject to the review and approval of the Executive Director, a plant list for non-habitat/non-buffer areas prepared in consultation with both the California Department of Fish and Game and the United States Fish and Wildlife Service that complies with the above criteria. The plant list shall identify: 1) the native plant species that may be planted in the development; 2) a list of the non-native, non-invasive common garden plant species that may be planted on the residential lots; 3) the non-native, non-invasive turf that may be planted within approved turf areas in the public access observations areas, along the public access trail, and within the private parks, and 4) the invasive plant species that are prohibited from use anywhere within the development. Once approved by the Executive Director this list shall be known as the “Approved Plant List for Non-Habitat/Non-Buffer Area.” Only those plants on the Approved Plant List for Non-Habitat/Non-Buffer Areas” shall be planted and allowed to grow within the non-habitat/non-buffer areas of the project. Additions to or deletions from these lists may only be made by the Executive Director of the California Coastal Commission, in consultation with the Department of Fish and Game and the Fish and Wildlife Service. The Approved Plant List for Non-Habitat/Non-Buffer Area shall be recorded in the covenants, conditions and restrictions of the homeowners association. No deviations from the list shall occur in the plantings on the site without an amendment to this permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is required.

16. **Lighting Restrictions**

- A. All lighting within the subdivision shall be directed and shielded so that light is directed away from wetlands and wetland habitat buffer areas.
- B. Floodlamp shielding and/or sodium bulbs shall be used for street lighting and lighting of streets, parks, or other common or public areas to reduce the amount of stray

lighting into native restoration and preservation areas. Furthermore, no skyward-casting lighting shall be used. The lowest intensity lighting shall be used that is appropriate to the intended use of the lighting.

- B. All exterior lights of residences, including any lights attached to the outside of the buildings, shall be the minimum necessary for the safe ingress, egress, and use of the structures, and shall be low-wattage, non-reflective, shielded, and have a directional cast downward such that no light will be directed to shine beyond the boundaries of the subject parcel.

17. Underground Utilities

- A. All utilities serving the proposed project shall be placed underground as proposed by the applicant.

18. Revised Tentative Map

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a revised tentative map approved by Del Norte County, which conforms with the requirements of the special conditions of this permit and depicts the final layout of all development including but not limited to lots, grading, streets, utilities, easements, infrastructure, water quality management system, trails, park and recreation facilities, signs, interpretive amenities, landscaping, and residential and public facilities. The revised tentative map shall be consistent with the terms and conditions of Coastal Development Permit No. A-1-DNC-06-037 and shall contain the following graphically-depicted information and textual notations:

- 1) Illustrations to be included on the Revised Tentative Map

- a. Demarcation of the three wetland and associated 100-foot wetland buffer areas that are subject to open space deed restriction required by Special Condition No. 2 and offers to dedicate open space easements required by Special Condition Nos. 4, 5, and 6; and
- b. Demarcation of the area subject to an offer to dedicate a public access trail, public access observation areas, and public access required by Special Condition No. 3;

- 2) Notes to be placed on the Revised Tentative Map

- a. “The open space areas depicted on this map are areas in which no ‘development’ as defined by Section 30106 of the Coastal Act may occur as required by Special Condition No. 2 of Coastal Development Permit No. A-1-DNC-06-037.”

The permittee shall inform the Executive Director of any changes to the project approved by the Commission that are required by Del Norte County. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

19. Final Parcel Map Review and Approval

- A. **PRIOR TO RECORDATION OF THE FINAL PARCEL MAP**, the applicant shall submit for the review and approval of the Executive Director a copy of the final parcel map approved by the County of Del Norte. The final map shall be consistent with the terms and conditions of Coastal Development Permit No. A-1-DNC-06-037 as well as the Revised Tentative Parcel Map approved by Del Norte County and the Executive Director pursuant to Special Condition 18.
- B. The applicant shall record the final parcel map consistent with the final map approved by the Executive Director pursuant to Special Condition 19A.

20. Encroachment Permit

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit to the Executive Director a copy of the final, approved Encroachment Permit issued by Del Norte County for the installation of any intersection improvements along Lake Earl Drive, or evidence that no permit is required. The applicant shall inform the Executive Director of any changes to the project required by Del Norte County. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

21. Conditions Imposed By Local Government

This action has no effect on conditions imposed by a local government pursuant to an authority other than the Coastal Act.

22. Recorded CC&Rs

The permittee shall establish and record, against the property that is the subject of this coastal development permit, covenants, conditions and restrictions (CC&Rs) for the proposed residential community to address the ownership, management and maintenance of all subdivision streets, sidewalks, public trails, public parking and viewing areas, drainage facilities, fencing and common landscaped areas by the property owners, in conjunction with either the Homeowner's Association or the County of Del Norte, as well as in conjunction with any non-profit entity accepting an easement interest in such facilities. The recorded CC&Rs shall be consistent with all requirements of this coastal development permit, including but not limited to the limitations on the use of the wetlands and wetland buffers identified in Special Condition 2 and the limitations on the public use of the streets, trails, parking and viewing areas contained in Special Conditions 3 and 8. The restrictions on the use of land cited within all of the special conditions of this permit shall be expressly identified in the recorded CC&Rs and the recorded CC&Rs shall also reflect the ongoing nature of the restrictions and obligations imposed by the special conditions. The CC&Rs shall be enforced by a Homeowner's Association consistent with all requirements of this coastal development permit and the CC&Rs may not be modified in a manner that would render them inconsistent with any provision of this permit or with any plan or other document approved by the Executive Director pursuant to the conditions of this permit. The recorded CC&Rs shall indicate all of the forgoing restrictions within their terms.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares the following:

1. Incorporation of Substantial Issue Findings

The Commission hereby incorporates by reference the Substantial Issue Findings contained in the Commission staff report dated September 28, 2006 and in the Substantial Issue Staff Report addendum dated October 11, 2006 presented at the October 13, 2006 hearing..

2. Site Description

The 45.5-acre subject property is located west of Lake Earl Drive at its intersection with Blackwell Lane, northeast of the City of Crescent City. The property is approximately 2.5 miles east of the Pacific Ocean and about one mile south of Lake Earl.

The property to be resubdivided is known as the Harbor Center Tract. The Harbor Center Tract, together with contiguous parcels in common ownership extending to the northeast along Lake Earl Drive, form a 136-acre property known as the Bay Meadows property.

The site occupies an upland marine terrace between two water courses and is dissected by smaller drainages and has a lightly undulating topography with elevations ranging from 20 to 44 feet. The two drainage systems cross the site from south to north and are made up of several intersecting channels. Other isolated wetlands are found on site.

Most of the site was historically dominated by redwood forest before it was logged and used for grazing for many years. Redwood forest community still occurs on the eastern and western peripheries and in isolated stands on the property. A significant portion of the property is now covered with disturbed perennial grassland, and a community of coastal scrub exists in the southwest corner of the site. No special-status plants and animals have been identified on the site.

No views are afforded across the property to either the ocean or Lake Earl. As noted above, both the ocean and Lake Earl are a mile or more away and topographical rises and forested areas on both the subject property and intervening property block all view of the ocean and Lake Earl.

The site contains no known archaeological resources.

The Harbor Center Tract was first recognized in a subdivision map approved by the County in 1931(see Exhibit No. 12). The subdivision has never been developed. The 1931 map showed 313 separate lots, most of them sixty by 100 feet in size. In 1986, Standard Plywood, the former owner of the Bay Meadows property (including the Harbor Center Tract) and substantial acreage in the surrounding area, received approval from the Del Norte County Planning Commission to resubdivide a 335 acre area surrounding and including the Bay Meadows property (see Exhibit No. 13). This larger resubdivision divided off the four existing parcels within the 136-acre Bay Meadows property from adjoining lands. The Harbor Center Tract is one of the four parcels of the 136-acre Bay Meadows property. The approved tentative map was approved with a condition and the subsequent final map was recorded with a note that creates some confusion about the status of the original 313 separate lots created within the 54-acre Harbor Center Tract in 1931. The condition of the tentative map approval required that the parcel map provide for either a reversion to acreage of the Harbor Center Tract or a resubdivision of the tract consistent with existing zoning. However, the final parcel map was recorded with a note stating the following:

It is the intention of the parties hereto that the Harbor Center Tract subdivision remain as filed and is not impaired or effected in any way by the filing of this parcel map.

The County findings for approval of the resubdivision that is the subject of the current appeal indicate that the County believes the resubdivision satisfies the condition of the 1986 tentative map approval to resubdivide the Harbor Center Tract consistent with existing zoning.

As discussed below in Finding 3, “Project Description,” the applicant applied for and received from Del Norte County in April of 2008, a coastal development permit for a lot line adjustment of the four parcels within the Bay Meadows property. This lot line adjustment had the effect of slightly reconfiguring the Harbor Center Tract parcel and reducing its size from 54.7 acres to 45.5 acres.

The subject property is within the urban boundary as designated in the certified LCP and the property is designated in the Land Use Plan as Suburban Residential (SR). Up to two dwelling units per acre may be developed in the SR land use classification. This land use designation is applied to residential areas within or adjacent to the urban area which have few or no community services, or where only public water is available. At the time the property was designated, those conditions existed. Currently, however, a major feeder line of the City of Crescent City water system is available along the property frontage and the approved subdivision will connect to this line. Community sewer lines are about one-half mile away on Northcrest Drive and sewer service will be extended to serve the residential subdivision. The property is zoned as Planned Community (PC).

3. Project Description

The development, as originally proposed and approved by the County, involved the resubdivision of a 54-acre tract of land known as the Harbor Center Tract into 70 lots (See Exhibit No.14). The approved lots were 20,000 square feet or larger, with the majority of the lots being approximately a half acre in size with 80 to 100 feet of street frontage. The approved development included the improvement of interior roadways and the installation of utilities.

For the purposes of *de novo* review by the Commission, the applicants have amended the project description and submitted a series of revised project plans that make changes to the originally proposed residential development as approved by the County. The most recent plans incorporating all project revisions are dated April 1, 2008.

The project revisions are designed to address the principal issues raised in the appeal concerning the protection of wetlands. The appellants contended that the wetland surveys that were performed for the site prior to County approval were inadequate, omitting certain wetland areas, and therefore the wetland and buffer development

restrictions applied by the County were not sufficient to protect all of the wetlands and environmentally sensitive habitat areas.

Evidence in the local record suggests that the wetland delineation process was not fully completed prior to County approval. In acting on the substantial issue portion of the appeal, the Commission found that substantial questions were raised as to whether the full extent of the wetlands on the property was known at the time of County approval, and whether the wetland buffers would be adequate in other ways. As approved the majority of new lots extended into the wetland areas of the site. In many cases, the buffer required by the County encompassed significant portions of the created lots, limiting the usable area for the residents, and increasing the likelihood that landowners would seek to site landscaping, patios, yard areas, and other residential uses in the required buffer area. This concern was exacerbated by the fact that the County did not require that the boundary of the buffer be fenced or physically marked on the ground to help future residents understand where the limits of the usable portion of their lots exist. The Commission therefore found that the appeal raised a substantial issue of conformance of the project as approved with the wetland protection provisions of the certified LCP.

The Commission continued the *de novo* portion of the hearing to allow the applicant to provide to the Commission certain information that would enable the Commission to evaluate the consistency of the project with the policies of the certified LCP. The principal information the Commission required was a final wetland delineation report prepared by a qualified wetland biologist to Coastal Act and LCP standards that included a final site map depicting the full extent of all wetlands on the property and the full extent of buffer area needed to protect the wetlands.

Since the October 2006 Commission meeting when the Commission found that the appeal raised a substantial issue, the applicant has employed two different consultants to prepare a revised wetland delineation for the site. Commission staff, including Senior Ecologist Dr. John Dixon has performed site visits with the applicant's consultants and reviewed wetland delineation reports submitted by the consultants. Dr. Dixon determined that the last submitted delineation report, dated February 25, 2008, and prepared by North Fork Associates, adequately delineated the wetlands on the portions of the Harbor Center Tract site that immediately surround the main drainage channels that extend through the site as well as the area to the southwest of the drainage channels, but that additional site investigations and analysis would be needed to adequately delineate other portions of the Harbor Center Tract and the larger Bay Meadows property.

The applicant has decided to seek Commission approval of development on the portion of the property where the wetland delineation has been completed and deemed adequate by Commission staff before pursuing further wetland delineation on the remainder of the Bay Meadows property. Therefore, the applicant has revised the project description of Appeal No. A-1-DNC-06-037 to limit the scope of development to the portions of the Harbor Center Tract site that immediately surround the main drainage channels that extend through the site as well as the area to the southwest of the drainage channels

where the wetland delineation work has been completed. In the future, when the wetland delineation work has been completed elsewhere on the property, the applicant has indicated he will likely seek separate coastal development authorization for future development of that area of the site from the County. To enable only the currently delineated area to be proposed for a residential subdivision, the applicant has in the meantime applied for and received a coastal development permit from Del Norte County to adjust the boundaries of the Harbor Center Tract and the other three parcels that comprise the Bay Meadows area in a manner that reconfigures the Harbor Center Tract to coincide with the area where wetland delineations have been completed. As noted in Finding 2, "Site Description," above, the four parcels adjusted had been established as part of a 1986 resubdivision of the property. Exhibit 6 shows the configuration of the four parcels before and after the recent boundary line adjustment approved by the County. The Harbor Center Tract parcel was reduced in size from 54.7 acres to 45.5 acres. The parcel was reconfigured in a manner that transferred an approximately 16.1-acre area northeast of the main drainage through the site from the Harbor Center Tract to adjoining Parcel 1, and transferred an approximately 6.4-acre triangular-shaped area to the north of the former northern boundary of the Harbor Center Tract that includes a portion of the drainage channels and additional area to the southwest of the drainage channels from Parcel 1 to the Harbor Center Tract.

As revised, the amended project description for A-1-DNC-06-037 proposes to resubdivide the newly reconfigured 45.5-acre Harbor Center Tract into 94 parcels, ranging in size from 3,000 square feet to half an acre. A total of 67 of the proposed parcels are slated for future development of single-family residences and 24 of the proposed parcels are slated for future development of Town homes. Three parcels are proposed as open space parcels to protect the existing wetlands on the site and associated 100-foot buffers. The project description does not seek authorization for development of the residences themselves; future development of the residences would require either separate coastal development permits or determinations that the residences are excluded from coastal development permit requirements under the terms and conditions of Categorical Exclusion Order granted by the Commission to the County after certification of the LCP in 1993, which excludes certain qualifying single family residential development from coastal development permit requirements. The specific elements of the amended project description are as follows:

Proposed Lots

The proposed resubdivision would divide the 45.5 acre Harbor Center Tract into 94 lots which vary in size and are a mix of lots that would support single family detached homes and attached single-family town homes, and three open space lots. A total of 67 lots are proposed for single-family detached homes and 24 lots are proposed for town homes that would be attached to town homes on adjoining lots. The overall density of the resubdivision is 0.5 units/per acre.

The resubdivision plan is laid out so as to provide at least 100-foot buffers from all wetlands. None of the residential lots would include any of the wetland habitat or associated 100-foot buffer area, as the wetland habitat and buffers would be located in separate restricted open space lots, Lots 92-94.

Road Improvements

The proposed project includes the construction of street improvements that involve an entry drive from Lake Earl Drive connecting to a loop system with associated connector streets and alleyways. Lake Earl Drive will be improved with a curb, gutter and sidewalk where the road abuts the property, and the developer will contribute to a reserve held by the County for installation of a future traffic light at the intersection of the entry drive (Road A), Lake Earl Drive, and Blackwell which intersects Lake Earl Drive opposite the proposed development. The proposed 28-foot-wide asphalt paved roads within the subdivision will be located within 50-foot rights of way. The roads will be improved with curbs, gutters, and 5-foot-wide sidewalks on one side and bio-filtration swales for stormwater runoff on the other. A 20-foot asphalt paved alleyway will be constructed within a 30-foot right-of-way between the lots that will flank B and C Streets. The roads will either be dedicated to the County and maintained by the County as public roads or placed under road easements held by the property owners and maintained by the Homeowner's Association.

An approximately 400-foot long section of Road A, the entry road, crosses the wetland and buffer area along the alignment of an existing logging road that extends through the Harbor Center Tract. The new road will utilize the existing crossing of the main drainage channel. Besides the drainage channel, two small isolated wetlands are located in close proximity to the existing road. The road will be widened in the direction away from these wetlands. No wetland fill is proposed for any of the proposed road improvements.

Utilities

The project includes a number of utility improvements. Water will be provided by the Crescent City Municipal Water District from a 24" main located along Lake Earl Drive. Water distribution lines will be installed within the subdivision. Fire hydrants will be spaced approximately 500 feet apart along the road network to ensure that each lot will be located within 250 feet of a hydrant as required by local fire safety regulations. Sewer service will be provided by the Crescent City Municipal Sewer District. Approximately 0.7 miles of pressure main will be installed along the east side of Northcrest Drive to connect the subdivision to an existing gravity main. A combination of gravity and pressure mains will be installed on-site to serve the subdivision. Electrical power, telephone, and television cable lines will be installed underground with the subdivision in common trenches.

Stormwater Runoff Treatment Facilities

The applicant has submitted a preliminary drainage plan that addresses how stormwater from the development will be conveyed and treated prior to discharge. The design includes the use of bio-filtration swales and desiltation (sedimentation) basins to, increase infiltration, remove sediment and other pollutants from the runoff, and control the release of stormwater into the drainage and other wetlands of the site (See Exhibit 10). The bio-filtration swales will generally be located along the shoulders of the roadways on within the backyards of the residential lots and will extend off the roadways to the four proposed desiltation basins. The desiltation basins will be located near where the runoff is intended to enter the wetlands. The applicant indicates that maintenance of the bio-filtration swales and desiltation basins will be the responsibility of the Home Owners Association.

Public Access Facilities

The applicant proposes to install a public access trail that will provide public access to the site from Lake Earl Drive into the project site and along the wetlands area associated with the drainage that extends through the site along the northeast boundary of the Harbor Center Tract. Starting from Lake Earl Drive, the trail will extend along the edge of Road A within the right-of-way of the road to Lot 34, at which point the trail will follow the buffer line across several residential parcels before to its end near Lot 1. The trail would be improved as a 5-foot-wide sidewalk along proposed A Street and as a surfaced trail between A street and Lot 1 to the north.

The northern end of the trail coincides with an existing logging road that extends across the drainage on a culverted crossing to other parts of the Bay Meadows property under the same ownership. If additional residential subdivision development is approved in the future on these other lands, the applicant anticipates that the existing logging road and its crossing of the wetlands will be improved as part of such a future project for both vehicular and pedestrian access to ensure connectivity of the two areas. The applicant is also proposing that another logging road that extends perpendicular to proposed Road A near the entrance to the proposed subdivision be reserved for a future vehicular and pedestrian connection to the areas of the Bay Meadows property to the north of the Harbor Center Tract.

As discussed below, the subdivision and trail will be built in phases. The applicant proposes to build the trail to the end of each phase as the phase is developed. To provide a destination point for each phase of the trail, the applicant proposes to install an approximately 15-foot by 10-foot observation area that would be surfaced and landscaped at the end of each phase.

Public Access parking would be provided in a five-car lot approximately 300 feet west of the entry into the subdivision. The parking area would be paved.

The public access trails and parking areas are proposed to be maintained by the Homeowners' Association.

Private Parks To Serve Subdivision

The proposed project includes the development of four private park areas in scattered locations within the Harbor Center Tract to serve the recreational needs of the residents of the subdivision. These park areas would total approximately 1.7 acres in size. The parks would be landscaped and improved with park amenities. The parks would be placed under easement to the Homeowner's Association and managed and maintained by the Homeowners' Association for the benefit of the residents of the subdivision.

Buffer Fencing

To clearly demarcate the edge of the 100-foot-wide wetland buffers and help avoid encroachment of residential uses into the buffer areas, the applicant proposes to install wetland buffer fencing. The buffer fencing will be of two types. To protect the wetland that exists in the southwest corner of the Harbor Center Tract and the offsite wetlands that exist west of the western property line, the applicant proposes to install a 5-foot-high chain link fence along the edge of the 100-foot buffer or along the western property line where the offsite wetlands are located more than 100 feet away from the site. A more visually appealing three-foot-high wood rail fence is proposed along the edge of the wetland buffer that will buffer the wetlands along the drainage channel and associated wetlands that run generally along the northeastern side of the Harbor Center Tract. The buffer fences will generally be built along parcel and road right-of-way boundaries that front onto the buffers, although portions of the 3-foot-high rail fences will extend across town home lots 68-70 and 80-85. The applicant indicates that maintenance of the fencing will be the responsibility of the Home Owners Association.

Phasing of Development

The proposed subdivision improvements would be constructed in six incremental phases (Phases A through F as shown on Exhibit 9). The timing of development of each phase will depend in part on market demand for the residential lots being created. As noted above, the public access trail will be built in phases that correspond with the subdivision phases.

Protection of Wetlands and Establishment of Wetland Buffers

The proposed project includes a number of measures to protect the wetlands that exist on the site.

First, as noted above, the resubdivision plan is laid out so as to provide at least 100-foot buffers between all future residential lots and the wetlands.

Second, as noted above, buffer fencing will be installed along the entire perimeter of the wetland buffers. The buffer fencing is proposed to be maintained by the Homeowner's Association.

Third, various notes will be placed on the Subdivision Map to limit use of the wetland areas and buffers. These notes include statements that development is prohibited in all wetland and wetland buffer areas.

Finally, the Conditions, Covenants, & Restrictions (CC&Rs) for the subdivision would state that development is prohibited in the wetland and wetland buffer areas. The CC&Rs would also place limitations on the keeping of pets and animals. These limitations would (1) prohibit keeping pets for breeding, commercial purposes, or in unreasonable numbers, (2) prohibit the keeping of livestock, poultry, or other farm animals, and require all pets to be kept within fenced areas unless on a leash and accompanied by the owner.

4. California Environmental Quality Act

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

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full, including all associated environmental review documentation and related technical evaluations incorporated-by-reference into this staff report. Those findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the proposed project has been conditioned to be consistent with the policies of the Coastal Act. As specifically discussed in these above findings, which are hereby incorporated by reference, mitigation measures that will minimize or avoid all significant adverse environmental impacts have been required. As conditioned,

there are no other feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse impacts that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found consistent with the requirements of the Coastal Act and to conform to CEQA.

EXHIBITS:

1. Regional Location
2. Vicinity Map
3. Location Map
4. Aerial Photograph
5. County Approved Resubdivision
6. 2008 Boundary Adjustment
7. Revised Project Description
8. Conceptual Subdivision Layout Plan
9. Proposed Phasing
10. Bio-filtration Design
11. Potential Access to Future Development
12. 1931 Harbor Center Tract Land Division
13. 1986 Standard Plywood Corporation Subdivision
14. Notice of Final Local Action
15. Appeal
16. Supplemental Wetland Information

Click on the link at left
to go to the exhibits.

ATTACHMENT A

STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgement. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable amount of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director of the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to bind all future owners and possessors of the subject property to the terms and conditions.