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Staff: Tiffany S. Tauber
Staff Report: July 24, 2008
Hearing Date: August 8, 2008
Commission Action:

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: **1-85-014-A1**

APPLICANT: Larry & Carmen Riche
(formerly 79-CC-208, Elizabeth Bernhard)

PROJECT LOCATION: A 4.5-acre bluff top parcel located southwest of the intersection of Lansing Street and Highway One, approximately ½ mile north of the Town of Mendocino at 1140 Lansing Street, Mendocino County (APNs 119-010-12 & 119-030-01).

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construction of a 2,000-square-foot, two-story, 24-foot-high, single-family residence, with an attached garage, well, and septic system.

DESCRIPTION OF AMENDMENT REQUEST: Construction of a 1,948-square-foot, one-story, single-family residence with a maximum height of 18 feet above natural grade and an attached 576-square-foot garage. Associated development includes construction of a 1,360-square-foot permeable driveway, deck, conversion of a test well to a production well, installation of a septic system,

	2,500 gallon water tank, propane tank, underground utilities, and removal of 12 trees.
GENERAL PLAN DESIGNATION:	Rural Residential, 5-acres [RR: L-2]
ZONING DESIGNATION:	Rural Residential
LOCAL APPROVALS RECEIVED:	None Required
SUBSTANTIVE FILE DOCUMENTS:	Mendocino County LCP; CDP File No. 79-CC-208 (1-85-014)

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission approve with conditions, the requested amendment to the coastal development permit originally granted for the construction of a single-family residence on a bluff top parcel west of Highway One, approximately ½ mile north of the Town of Mendocino in a designated "highly scenic" area of Mendocino County.

The original permit approved in 1980 (CDP No. 79-CC-208, Bernhard), authorized the construction of a 2,000-square-foot, 24-foot-high single-family residence with an attached garage, well, septic system, and driveway. The permit was approved with nine special conditions addressing visual resource issues, geologic hazards, and public access. The original applicant satisfied the special conditions that were required to be met prior to issuance of the permit, and the permit was issued in 1983. The well was installed pursuant to the permit, and thus, the permit is considered vested. However, the house itself and none of the other authorized improvements were ever developed, and the site has remained largely undeveloped for many years. The current applicants purchased the property and wish to construct a house with a different design.

The proposed amendment request seeks approval of a 1,948-square-foot, one-story, single-family residence with a maximum height of 18 feet above natural grade and an attached 576-square-foot garage. Associated development includes construction of a 1,360-square-foot permeable driveway, deck, conversion of a test well to a production well, installation of a septic system, 2,500 gallon water tank, propane tank, underground utilities, and removal of 12 trees.

The residence as proposed to be amended would be redesigned, but would be (1) located in generally the same location as the originally approved residence, (2) approximately the same size, and (3) limited to one story, or six feet lower in height than the original residence. The proposed amendment would site the residence 63 feet from the edge of the northwest bluff and 51 feet from the edge of the southwest bluff consistent with recommendations set forth in the geologic investigation prepared for the site.

The primary issues raised by the project as proposed to be amended include the protection of visual resources and geologic hazards and standard issues regarding the protection of water quality from construction impacts.

Since approval of the original permit in 1980, the development standards applicable to the site have changed. The Mendocino County Local Coastal Program (LCP) was certified in 1993, and became the new standard of review for coastal development permit applications. In addition, over the last decade, the Commission and the County often condition new development on bluff top parcels upon requirements that applicants assume the risks of developing in areas subject to bluff retreat and record deed restrictions precluding the construction of future shoreline protective devices to protect new development from geologic hazards. In addition, site conditions have changed, in that additional erosion of the bluff face has occurred and trees on the site have grown substantially, further screening the development site from public vantage points. Furthermore, the current owners wish to build a house of a different design that the house that was originally permitted. As development standards, site conditions, and the proposed project have changed, different special conditions are needed to bring the project into conformance with the certified LCP.

Staff believes that with the attachment of seven new special conditions, and the continuing imposition of six of the nine special conditions of the original permit (CDP No. 79-CC-280/1-85-014, Bernhard), the project as amended would be consistent with the Mendocino LCP.

With regard to geologic hazards and bluff setback, the applicants' geologist submitted quantitative slope stability analyses that resulted in a recommended 63-foot setback from the northwest bluff edge and a 51-foot setback from the southwest bluff edge, 23 and 11 feet greater than the setbacks required by the original permit. The applicants have sited and designed the proposed amended residence to conform to the recommended bluff setbacks. The Commission's staff geologist reviewed the geotechnical data submitted by the applicants' geologist, visited the site, and determined that the proposed bluff retreat rate, setback, and other recommendations were reasonable. Staff recommends that the Commission impose Special Condition Nos. 10, 11, and 13. These recommended conditions would require (a) conformance of the design and construction plans to the geotechnical report, (b) no future bluff or shoreline protective device to protect the new residential additions and structures, and (c) assumption of risk, waiver of liability and indemnity.

To ensure the development will be subordinate to the character of its setting and conform with provisions in the certified LCP regarding development in designated highly scenic areas and the protection of visual resources, staff recommends Special Condition No. 14 and 15. Special Condition No. 14 requires that (a) only the proposed dark, natural earth tone building materials and colors are used in the construction of the development and that the current owner or any future owner shall not repaint or stain the house with products that would lighten the color of the house from the proposed and approved colors without a permit amendment, (b) all exterior materials be non-reflective to minimize glare, (c) all exterior lights to 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, and (d) all utilities serving the project be placed underground. Special Condition No. 15 requires that existing trees greater than 12-inch diameter at breast height (dbh) that provide screening of the development be maintained in good growing condition throughout the life of the project. If any of the existing trees die or are removed for any reason, they shall be immediately replaced in-kind or with other native non-invasive species common to the area that will grow to a similar or greater height.

To ensure the protection of water quality, staff is recommending Special Condition No. 16, requiring implementation of standard Best Management Practices (BMPs) during construction to control the erosion of exposed soils and minimize sedimentation of coastal waters during construction.

Lastly, staff recommends Special Condition No. 12 that requires the applicants to record a deed restriction detailing the specific development authorized under the permit, identifying all applicable special conditions attached to the permit, and providing notice to future owners of the terms and limitations placed on the use of the property. As conditioned, staff believes that the amended development is consistent with the policies of the certified Mendocino 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 Mendocino County LCP and the public access policies of the Coastal Act.

The motion to adopt the staff recommendation of approval with conditions is found on page 6.

STAFF NOTES:

1. Procedural Note

Section 13166 of the California Code of Regulations states that the Executive Director shall reject an amendment request if: (a) it lessens or avoids the intent of the approved permit; unless (b) the applicant presents newly discovered material information, which he or she could not, with reasonable diligence, have discovered and produced before the permit was granted.

The Executive Director has determined that the proposed amendment would not lessen or avoid the intent of the conditionally approved permit. On February 14, 1980, Coastal Permit No. 79-CC-208 (Elizabeth Bernhard, later renumbered 1-85-014) was approved by the Commission for the construction of a 24-foot-high, 2,000-square-foot, single-family residence with an attached garage, well, and septic system. The permit was approved with nine special conditions intended

to assure consistency with the provisions of the Coastal Act regarding geologic hazards, visual resources, and public access.

The current amendment request seeks to construct a one-story, single-family residence of approximately the same size and in the same general location. The proposed amendment would site the residence further away from the bluff edge to better protect the home from bluff retreat in a manner that would not increase the visual impact of the project or affect the public access required under the original permit. Accordingly, the development as amended would be consistent with the Commission's intent in approving the original permit to protect visual resources, guard against the geologic hazard of bluff retreat, and provide maximum public access. In addition, the amended development conforms to the policies and standards of the certified Mendocino LCP with respect to designing and siting development so as to be compatible with the visual resource, geologic hazard, and public access policies.

Therefore, the Executive Director found that the proposed amendment would not conflict with the intent of Coastal Development Permit No. 79-CC-208 (1-85-014) because with conditions, geologic, visual, and public access resources would continue to be protected to at least the same degree under the proposed amendment. Since this amendment request would not result in a lessening or avoidance of the intent of the originally approved permit, the Executive Director accepted the amendment request for processing.

2. Standard of Review

The Coastal Commission effectively certified Mendocino County's LCP in October of 1992. Pursuant to Section 30604 of the Coastal Act, after effective acceptance of a certified LCP, the standard of review for all coastal permits and permit amendments for developments located between the first public road and the sea is the certified LCP and the public access policies of the Coastal Act.

3. Scope

This staff report addresses only the coastal resource issues affected by the proposed permit amendment, provides recommended special conditions to reduce and mitigate significant impacts to coastal resources caused by the development as amended in order to achieve consistency with the Coastal Act, and provides findings for conditional approval of the amended development. All other analyses, findings, and conditions related to the originally permitted development, except as specifically affected by the current permit amendment request and addressed herein, remain as stated within the original permit approval adopted by the Commission on January 7, 1980, attached as Exhibit No. 5.

I. MOTION, STAFF RECOMMENDATION AND RESOLUTION:

The staff recommends that the Commission adopt the following resolution:

Motion:

I move that the Commission approve Coastal Development Permit Amendment No. 1-85-014-A1 pursuant to the staff recommendation.

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment 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 THE PERMIT AMENDMENT:

The Commission hereby approves the coastal development permit amendment and adopts the findings set forth below on grounds that the development as amended and subject to conditions will be in conformity with the policies of the certified Mendocino County Local Coastal Program, is located between the sea and the nearest public road to the sea, and is in conformance with the public access and recreation policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment.

II. STANDARD CONDITIONS: (See attached Appendix A.)

III. SPECIAL CONDITIONS:

Note: The original permit (CDP No. 79-CC-208/Renumbered 1-85-014) contains 9 special conditions. Special Condition Nos. 1, 4, 6, 7, 8, and 9 of the original permit continue to be imposed as a condition of CDP Amendment No. 1-85-014-A1 without any changes and remain in full force and effect. Special Condition Nos. 2, 3, and 5 of the original permit are deleted and replaced by new Special Condition Nos. 10, 10, and 14 (respectively) in this permit amendment. Special Condition Nos. 11, 12, 13, 15, and 16 are additional new special conditions attached to CDP Amendment No. 1-85-014-A1. The new conditions are listed below. For comparison, the text of the original permit conditions, including the special conditions that continue to be imposed as conditions of this amendment are included in Exhibit No. 5.

10. Conformance of the Design and Construction Plans to the Geotechnical Investigation Report

A. All final design and construction plans, including bluff setback, foundations, grading, and drainage plans, shall be consistent with the recommendations contained in the Geotechnical Investigation report dated September 26, 2006 as modified and supplemented by the Geotechnical Investigation dated March 24, 2008 prepared by BACE Geotechnical Consultants. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall submit, for the Executive Director's review and approval, evidence that a licensed professional (Certified Engineering Geologist or Geotechnical Engineer) has reviewed and approved all final design, construction, and drainage plans and has certified that each of those plans is consistent with all of the recommendations specified in the above-referenced geotechnical report approved by the California Coastal Commission for the project site.

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 further Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

11. No Future Bluff or Shoreline Protective Device

A. By acceptance of this permit amendment, the applicants agree, on behalf of themselves and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit Amendment No. 1-85-014-A1, including, but not limited to, the residence with the attached garage, foundations, well, septic system, and driveway in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, ground subsidence or other natural hazards in the future. By acceptance of this permit, the applicants hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235 or under any applicable provision of the Mendocino County certified LCP, including Mendocino County Land Use Plan Policy No. 3.4-12 and Mendocino County Coastal Zoning Code Section 20.500.020(E)(1) and any amendments thereto.

B. By acceptance of this permit amendment, the applicants further agree, on behalf of themselves and all successors and assigns, that the landowner shall remove the development authorized by this permit amendment, including the residence with the attached garage, well, septic system, and driveway if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the

landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

C. In the event the edge of the bluff recedes to within 10 feet of the principal residence but no government agency has ordered that the structures not be occupied, a geotechnical investigation shall be prepared by a licensed geologist or civil engineer with coastal experience retained by the applicant, that addresses whether any portions of the residence are threatened by wave, erosion, storm conditions, or other natural hazards. The report shall identify all those immediate or potential future measures that could stabilize the principal residence without shore or bluff protection, including but not limited to removal or relocation of portions of the residence. The report shall be submitted to the Executive Director and the appropriate local government official. If the geotechnical report concludes that the residence or any portion of the residence is unsafe for occupancy, the permittee shall, within 90 days of submitting the report, apply for a coastal development permit amendment to remedy the hazard which shall include removal of the threatened portion of the structure.

12. Deed Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, 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 amendment a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit amendment, 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 amendment 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 amendment. 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 amendment shall continue to restrict the use and enjoyment of the subject property so long as either this permit amendment or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

13. Assumption of Risk, Waiver of Liability and Indemnity

By acceptance of this permit amendment, the applicants acknowledge and agree: (i) that the site may be subject to hazards from landslide, bluff retreat, erosion, subsidence, and earth movement; (ii) to assume the risks to the applicants and the property that is the subject of this permit amendment of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the

project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

14. Design Restrictions

A. All exterior siding and roofing of the proposed structure shall be composed of the colors proposed in the application or darker earth tone colors only. The current owner or any future owner shall not repaint or stain the house or other approved structures with products that will lighten the color of the house or other approved structures without an amendment to this permit. In addition, all exterior materials, including roofs and windows, shall be non-reflective to minimize glare;

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

C. All utilities serving the proposed project shall be placed underground.

15. Landscaping Restrictions

A. All existing trees on the parcel that are 12-inches in diameter at breast height (12" dbh) or greater, other than the 12 trees authorized to be removed by Coastal Development Permit Amendment 1-85-014-A1, shall be maintained in good growing condition throughout the life of the project. If any of the existing 12" dbh trees except for those authorized for removal or located within 10 feet of the bluff edge die, become decadent, rotten, or weakened by decay or disease, or are removed for any reason, they shall be immediately replaced in-kind or with native non-invasive tree species common to the area that will grow to a similar or greater girth and height. All proposed plantings shall be obtained from local genetic stocks within Mendocino County. If documentation is provided to the Executive Director that demonstrates that native vegetation from local genetic stock is not available, native vegetation obtained from genetic stock outside the local area, but from within the adjacent region of the floristic province, may be used.

B. No limbing or pruning of trees that are 12" dbh or greater shall occur unless a permit amendment is obtained and issued prior to the commencement of limbing and pruning.

C. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or by the State of California shall be employed or allowed to naturalize or persist at the site of the proposed amended

development. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property.

D. Rodenticides containing any anticoagulant compounds, including but not limited to, Bromadiolone, Brodifacoum, or Diphacinone, shall not be used.

16. Best Management Practices and Construction Responsibilities

The permittee shall comply with the following construction-related requirements:

A. Any and all excess excavated material resulting from construction activities shall be removed and disposed of at a disposal site outside the coastal zone or placed within the coastal zone pursuant to a valid coastal development permit;

B. Straw bales, coir rolls, or silt fencing structures shall be installed prior to and maintained throughout the construction period to contain runoff from construction areas, trap entrained sediment and other pollutants, and prevent discharge of sediment and pollutants toward the bluff edge;

C. On-site vegetation shall be maintained to the maximum extent possible during construction activities;

D. All on-site stockpiles of construction debris shall be contained at all times to prevent polluted water runoff;

E. The canopy and root zones of existing living trees on site shall be protected through temporary fencing or screening during construction; and

F. All grading activity shall be limited to the dry season between April 15th and October 31st.

IV. FINDINGS AND DECLARATIONS FOR APPROVAL

The Commission hereby finds and declares:

1. Site Description

The subject site is a 4.5-acre bluff top parcel located west of Highway One, approximately ½ mile north of the Town of Mendocino at the intersection of Lansing Street and Highway One in Mendocino County. (See Exhibit Nos. 1-2). The parcel occupies a small, northwest trending point, approximately 80 feet above the ocean with steeply sloping bluff faces. A narrow bluff shelf extends north approximately 300 feet to Jack Peters Creek and south approximately 200 feet to the southern property boundary. No structures are proposed on these narrow shelves. The

site is currently undeveloped with the exception of a test well that was installed pursuant to the original permit (CDP No. 79-CC-208, Bernhard).

Vegetation on the site consists predominately of a dense stand of Monterey cypress and pine trees with little herbaceous understory. Other vegetation at the site includes exotic grasses, poison oak, and coyote brush. A botanical survey was conducted at the site in May, June, and July of 2006. No special-status plant species, plant communities, wetlands, or other environmentally sensitive habitat areas occur on the subject site.

The subject property is designated as "highly scenic" in the certified Mendocino County LCP. The site is visible from Highway One as well as from Russian Gulch State Park and Mendocino Headlands State Park. Views of the ocean from Highway One across the parcel are largely obstructed by the dense stand of forest vegetation.

2. Originally Approved Project

The original permit application was approved by the Commission on February 14, 1980 and the permit was issued in 1983. The approved permit authorized the construction of a two-story, 24-foot-high, 2,000-square-foot single-family residence with an attached garage, well, and septic system. The approved residence was sited 30 feet from the western edge of Lansing Street and was required to be located a minimum of 40 feet from the edge of the coastal bluff.

The original permit was approved with nine special conditions requiring: (1) submittal of revised plans showing the location of the proposed development and any proposed landscaping; (2) notification of commencement of construction of the foundation to ensure conformance with the revised site plan; (3) siting the residence a minimum of 40 feet from the bluff top and the leachfield a minimum of 100 feet from the mean high tide line; (4) installing utilities underground; (5) the exterior finish to blend with and subordinate to the surrounding area; (6) recordation of a deed restriction acknowledging the geologic hazards at the site; (7) recordation of an offer to dedicate a 150-foot vertical public access easement south from the northern boundary of the property line extending to the mean high tide line; (8) fitting faucets and shower heads with water saving devices that restrict flow to a maximum of three gallons of water per minute; and (9) that no further development occur at the site without obtaining Commission approval.

The original applicant satisfied the special conditions that were required to be met prior to issuance of the permit, and the permit was issued. The well was installed pursuant to the permit, and thus, the permit is considered vested. However, the house itself and none of the other authorized improvements were ever developed, and the site has remained largely undeveloped for many years. The current applicants purchased the property and wish to construct a house with a different design.

Since approval of the original permit in 1980, the development standards applicable to the site have changed. The Mendocino County Local Coastal Program (LCP) was certified in 1993, and

became the new standard of review for coastal development permit applications. In addition, over the last decade, the Commission and the County often condition new development on bluff top parcels upon requirements that applicants assume the risks of developing in areas subject to bluff retreat and record deed restrictions precluding the construction of future shoreline protective devices to protect new development from geologic hazards. In addition, site conditions have changed, in that additional erosion of the bluff face has occurred and trees on the site have grown substantially, further screening the development site from public vantage points. Furthermore, the current owners wish to build a house of a different design than the house that was originally permitted. As development standards, site conditions, and the proposed project have changed, different special conditions are needed to bring the project into conformance with the certified LCP.

3. Permit Amendment Description

The proposed amendment request seeks approval of a revised house design and other changes that would result in development of a 1,948-square-foot, one-story, single-family residence with a maximum height of 18 feet above natural grade and an attached 576-square-foot garage. Associated development includes construction of a 1,360-square-foot permeable driveway, deck, conversion of a test well to a production well, installation of a septic system, 2,500 gallon water tank, propane tank, underground utilities, and removal of 12 trees to clear ground for the development.

The proposed amendment would site the residence 63 feet from the edge of the northwest bluff and 51 feet from the edge of the southwest bluff. As proposed to be amended, the residence would be one-story rather than two stories, approximately the same square footage as the originally approved house, and would be sited and designed in a manner that would not increase the visual impact of the project.

The applicants propose the use of dark, earth tones and natural materials including (1) Hardi Plank siding with "Shagbark" stain, (2) Hardi Shake trim and shingles with "Tobacco" stain, (3) Fiberglass front door with "Walnut" stain, (4) Lindal Cedar Homes Cedar clad windows, (5) Trex decking with "Saddle" stain and "Woodland Brown" accents, and (6) Malarkey composition shingles in "Weathered Wood."

4. Geologic Hazards

Summary of LCP Policies

LUP Policy 3.4-1 states the following in applicable part:

> "*The County shall review all applications for Coastal Development permits to determine threats from and impacts on geologic hazards arising from seismic events, tsunami run-up, landslides, beach erosion, expansive soils and subsidence and shall require appropriate mitigation measures to minimize such threats. In areas of known or*

potential geologic hazards, such as shoreline and bluff top lots and areas delineated on the hazards maps, the County shall require a geologic investigation and report, prior to development to be prepared by a licensed engineering geologist or registered civil engineer with expertise in soils analysis to determine if mitigation measures could stabilize the site…"

LUP Policy 3.4-7 and Coastal Zoning Code Section 20.500.020(B) state that:

"The County shall require that new structures be set back a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (75 years). Setbacks shall be of sufficient distance to eliminate the need for shoreline protective works. Adequate setback distances will be determined from information derived from the required geologic investigation and from the following setback formula:

Setback (meters) = Structure life (years) x Retreat rate (meters/year)

The retreat rate shall be determined from historical observation (e.g., aerial photographs) and/or from a complete geotechnical investigation.
All grading specifications and techniques will follow the recommendations cited in the Uniform Building Code or the engineering geologist's report.

LUP Policy 3.4-12 and Zoning Code Section 20.500.020(E)(1) state that:

"*Seawalls, breakwaters, revetments, groins, harbor channels and other structures altering natural shoreline processes or retaining walls shall not be permitted unless judged necessary for the protection of existing development, public beaches or coastal dependent uses*."

Section 20.500.015(A) of the Coastal Zoning Code states in applicable part:

"(1) Preliminary Investigation. The Coastal Permit Administrator shall review all applications for Coastal Development Permits to determine threats from and impacts on geologic hazards.

(2) Geologic Investigation and Report. In areas of known or potential geologic hazards such as shoreline and bluff top lots and areas delineated on the hazards maps, a geologic investigation and report, prior to development approval, shall be required. The report shall be prepared by a licensed engineering geologist or registered civil engineer pursuant to the site investigation requirements in Chapter 20.532."

Section 20.500.010 of the Coastal Zoning Code states that development shall:

> *"(1) Minimize risk to life and property in areas of high geologic, flood and fire hazard;*
>
> *(2) Assure structural integrity and stability; and*
>
> *(3) Neither create nor contribute significantly to erosion, geologic instability or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs."*

Section 20.500.020(B) of the Coastal Zoning Code states in applicable part:

> *"(1) New structures shall be set back a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (seventy-five (75) years). New development shall be set back from the edge of bluffs a distance determined from information derived from the required geologic investigation and the setback formula as follows:*
>
> *Setback (meters) = structure life (75 years) x retreat rate (meters/year)*
>
> *Note: The retreat rate shall be determined from historical observation (aerial photos) and/or from a complete geotechnical investigation.*
>
> **…**
>
> *(3) Construction landward of the setback shall not contribute to erosion of the bluff face or to instability of the bluff..*

Discussion:

CZC Section 20.500.015(A) requires all applications for coastal development permits in areas of known or potential geologic hazards such as shoreline and bluff top lots be reviewed to ensure that new development will be safe from bluff erosion and cliff retreat. To this end, LUP Policy 3.4-7 and Coastal Zoning Code Sections 20.500.010(A)(3) and 20.500.020(E) direct the approving authority to assure that new development is sited and designed to provide adequate setbacks from geologically hazardous areas and that restrictions of land uses be applied as necessary to ensure that the construction of seawalls or other shoreline protective structures will not be needed over a full 75-year economic lifespan of the development. A sole exception to this prohibition on the construction of shoreline protective devices is provided in CZC Section 20.500.020(E) for the necessary protection of existing development, public beaches, and coastal dependent uses.

The subject site is an approximately 4.5-acre blufftop property that occupies a small, northwest trending point, approximately 80 feet above the ocean. The upper portion of the triangular-shaped point is nearly flat. The apex of the triangle descends to the northwest with a slope

gradient of approximately three quarters horizontal to one vertical (3/4H:1V). Several rock islands are aligned in a northwesterly direction extending from the apex of the point. The side slopes are very steep; approximately 1/4H:1V on the northeast and approximately 1/2H:1V on the southwest. A sandy beach is located at the toe of the northeast bluff; the southwest-facing bluff has a boulder and cobble beach at the toe. Ocean waves reach the northeast bluff toe during high tides, while the southwest bluff toe is partially protected from waves by the boulder and cobble beach, except during storm periods. A small sea cave, about ten feet wide by about five feet high by five feet long (into the bluff) is located at the bluff toe. On average, several inches of retreat have occurred along the bluff since 1998. In one area along the northwest bluff, a stand of several large eucalyptus trees fell off the bluff edge, resulting in a localized loss of several feet in one winter.

As described above, the proposed amendment involves the construction of a new single-family residence with an attached garage, septic system, and driveway. The residence would be a new structure that Mendocino County LUP Policy 3.4-7 and Coastal Zoning Code Section 20.500.020(B) require to be set back a sufficient distance from the edge of the bluff to ensure its safety from bluff erosion and cliff retreat during the economic life span of 75 years. Additionally, these provisions require that the setback be a sufficient distance so as to preclude the need for shoreline protection devices.

The original permit approved development of a single-family residence with a special condition (Special Condition No. 3 of CDP 79-CC-208) requiring the residence to be sited a minimum of 40 feet from the bluff edge consistent with recommendations contained in a geologic report submitted with the application in 1979. As part of the permit amendment application, the applicants submitted new, updated geotechnical information prepared by BACE Geotechnical (BACE) including (1) a geotechnical investigation dated June 27, 2000 that involved an update from a site reconnaissance in performed in 1998, (2) a project update report dated September 26, 2006 that involved additional site observations, and (3) a supplemental analysis dated March 24, 2008 that included quantitative slope analyses and bluff retreat rate documentation.

In the 1998 reconnaissance letter and 2000 investigation report, BACE provided an estimated bluff retreat rate of 8 inches per year for the northwest bluff, and 6 inches per year for the southwest bluff. Based on the estimated retreat rates, both the 2000 and 2006 geotechnical reports recommended a bluff setback of 50 feet for the northwest bluff and 38 feet for the southwest bluff. The 2000 geotechnical report also set forth several development recommendations regarding foundation construction, site grading, and drainage. However, the geotechnical reports prepared by BACE in June 2000 and September 2006 did not include quantitative slope stability analyses, which as described below are necessary to determine conformance with the geologic hazard policies of the LCP.

In previous actions on coastal development permits and permit amendments, the Commission has interpreted Section 30253 of the Coastal Act, LUP Policy 3.4-7, and CZC Section 20.500.010(A) to require that coastal development be sited a sufficient distance landward of coastal bluffs that it will neither be endangered by erosion nor lead to the construction

of protective coastal armoring during the assumed economic life of the development. As cited above, LUP Policy 3.4-7 identifies the economic life of a structure to be 75 years. A setback adequate to protect development over the economic life of a development must account both for the expected bluff retreat during that time period and the existing slope stability. Long-term bluff retreat is measured by examining historic data, including vertical aerial photographs and any surveys conducted that identified the bluff edge, and estimating changes in this rate that may be associated with continuing or accelerating sea level rise. Slope stability is a measure of the resistance of a slope to landsliding, and can be assessed by a quantitative slope stability analysis. In such an analysis, the forces resisting a potential landslide are first determined. These are essentially the strength of the rocks or soils making up the bluff. Next, the forces driving a potential landslide are determined. These forces are the weight of the rocks as projected along a potential slide surface. The resisting forces are divided by the driving forces to determine the "factor of safety." The process involves determining a setback from the bluff edge where a factor of safety of 1.5 is achieved. The Commission generally defines "stable" with respect to slope stability as a minimum factor of safety of 1.5 against landsliding.

The applicants' geologist performed bluff stability analyses according to the guidelines of Commission staff geologist, Dr. Mark Johnsson and prepared a supplemental report dated March 24, 2008. The analyses resulted in increasing the previously-determined retreat rate by one third, resulting in an estimated retreat rate of 5.33-inches per year for the southwest bluff. Adding a safety factor of 1.5, an estimated retreat rate of 8-inches per year was determined for the northwest bluff. Thus, the revised bluff setbacks added an additional 13 feet, resulting in revised recommended setbacks of 63 feet from the northwest bluff and 51 feet from the southwest bluff. Pursuant to these revised setback recommendations resulting from the slope stability analyses, the applicants submitted revised project plans that made changes to the proposed amended development to accommodate the recommended bluff setbacks by reducing the overall footprint of the development by approximately 800 square feet. The applicants' geologist determined that the other development recommendations set forth in the June 2000 report are still appropriate and applicable for the proposed development.

The Commission's staff geologist reviewed the geotechnical data submitted by the applicants' geologist, visited the site, and determined that the proposed bluff retreat rate, setback, and other recommendations were reasonable. Therefore, the Commission finds that the minimum setbacks between the bluff edges and the development proposed to be amended by the applicants are sufficient to protect the amended development from bluff retreat for a 75-year design life consistent with LUP Policy 3.4-7 and CZC Section 20.500.020(B).

To ensure that the proposed amended residence is developed consistent with the recommended bluff setback as proposed, the Commission attaches Special Condition No. 1, which requires that the final construction plans for the residence adhere to the design recommendations specified in the geotechnical reports, and that development is constructed consistent with the geologic setback recommendations. Therefore, the Commission finds that as conditioned, the development as proposed to be amended would be set back a sufficient distance from the bluff

edge to provide for a 75-year design life of the amended development consistent with LUP Policy 3.4-7 and CZC Section 20.500.020(B).

LUP Policy 3.4-1 states, in part, that geologic investigations for development in areas of known or potential geologic hazards shall determine if mitigation measures could stabilize the site. In addition to the recommended bluff setback, the geotechnical report sets forth detailed recommendations regarding site grading, foundation support, seismic design criteria, and site drainage to address potential settlement, strong seismic shaking, and the impact of construction of the stability of the site and its ability to support the amended development as discussed below.

The subject property is within the Coast Ranges geomorphic province, a zone of high seismic activity associated with the active San Andreas Fault system, which passes through the Mendocino County coastal area approximately five miles southwest of the site. The project site is subject to strong ground shaking due to future, nearby earthquakes on this fault system during the lifetime of the proposed structure. According to the geotechnical report, the intensity of ground shaking at the site will generally depend on the distance to the causative earthquake epicenter, the magnitude of the shock, and the response characteristics of the underlying earth materials. No evidence of other faulting was observed in the property vicinity, and none of the published references that were reviewed show faults on, or trending towards, the property. The geotechnical report recommends a foundation system of drilled reinforced-concrete piers with interconnecting grade beams.

The geotechnical report further states that because the structure will be intercepting the natural sheet flow across the site, concentrated runoff water, including water from roof gutter downspouts, should be dispersed onto the ground surface on the inland sides of the residence to minimize localized sloughing on the upper bluff slope.

The geotechnical report states, "*In general, the proposed development, constructed in accordance with our recommendations, should have little effect upon bluff stability."* The report further states, "*Before construction, BACE should review the final grading and foundation plans and geotechnical-related specifications for conformance with our recommendations.*" Special Condition No. 10 requires that the final construction plans for the residence adhere to the design recommendations specified in the geotechnical report, and that the proposed amended development is constructed consistent with these recommendations. The condition requires all final design and construction plans for the amended development, including foundations and site drainage, be consistent with the recommendations contained in the Geotechnical Investigation reports dated June 27, 2000 and September 26, 2006, and as supplement dated March 24, 2008 prepared by BACE Geotechnical Consultants. As conditioned, the development as proposed to be amended would include the measures determined by the geologic investigations to be necessary to stabilize the site consistent with LUP Policy 3.4-1.

Based upon the geologic report prepared by BACE and the evaluation of the project by the Commission's staff geologist, the Commission finds that the risks of geologic hazard would be minimized if the residence is set back approximately 63 feet from the northwest bluff and a 51

feet from the southwest bluff, and if the design and construction recommendations discussed above are implemented. Although a comprehensive geotechnical evaluation is a necessary and useful tool that the Commission relies on to determine if proposed development is permissible at all on any given bluff top site, the Commission finds that a geotechnical evaluation alone is not a guarantee that a development will be safe from bluff retreat. It has been the experience of the Commission that in some instances, even when a thorough professional geotechnical analysis of a site has concluded that a proposed development will be safe from bluff retreat hazards, unexpected bluff retreat episodes that threaten development during the life of the structure sometimes still do occur. Site-specific geotechnical evaluations cannot always accurately account for the spatial and temporal variability associated with coastal processes and therefore, cannot always absolutely predict bluff erosion rates.

The BACE Geotechnical Investigation report states that their geological and engineering services and review of the proposed amended development was performed in accordance with the usual and current standards of the profession, as they relate to this and similar localities and specifically states, "*No other warranty, expressed or implied, is provided as to the conclusions and professional advice presented in the report*." This language in the report itself is indicative of the underlying uncertainties of this and any geotechnical evaluation and supports the notion that no guarantees can be made regarding the safety of the proposed development with respect to bluff retreat. Therefore, the Commission finds that the subject lot is an inherently hazardous piece of property, that the bluffs are clearly eroding, and that the proposed new development will be subject to geologic hazard and could potentially some day require a bluff or shoreline protective device.

LUP Policy 3.4-7 and Section 20.500.010 of the Mendocino County Coastal Zoning Ordinance state that new development shall minimize risk to life and property in areas of high geologic, flood, and fire hazard, assure structural integrity and stability, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The Commission finds that the proposed amended development could not be approved as being consistent with LUP Policy 3.4-7 and Zoning Code Section 20.500.010 and 20.500.020(B) if projected bluff retreat would affect the proposed amended development and necessitate construction of a seawall to protect it. Therefore, the Commission attaches Special Condition No. 11, which indicates that by acceptance of the permit amendment, the applicants agree that no bluff or shoreline protective devices shall ever be constructed to protect the development approved by this amendment.

In addition, as noted above, some risks of an unforeseen natural disaster, such as an unexpected landslide, massive slope failure, erosion, etc. could result in destruction or partial destruction of the house, as amended, or other development approved by the Commission. Furthermore, the amended development itself and its maintenance may cause future problems that were not anticipated. When such an event takes place, public funds are often sought for the clean up of structural debris that winds up on the beach or on an adjacent property. As a precaution, in case such an unexpected event occurs on the subject property, Special Condition No. 11 further requires the landowner to accept sole responsibility for the removal of any structural debris

resulting from landslides, slope failures, or erosion on the site, and agree to remove the house should the bluff retreat reach the point where a government agency has ordered that the structure not be occupied.

The Commission also attaches Special Condition No. 12, which requires the applicants to record a deed restriction for the amended project, to impose the special conditions of the permit amendment as covenants, conditions and restrictions on the use and enjoyment of the property. This special condition is required, in part, to ensure that the development is consistent with the LCP and to provide notice of potential hazards of the property and help eliminate false expectations on the part of potential buyers of the property, lending institutions, and insurance agencies that the property is safe for an indefinite period of time and for further development indefinitely into the future, or that a protective device could be constructed to protect the approved development.

Additionally, the Commission attaches Special Condition No. 13, which requires the landowner to assume the risks of extraordinary erosion and geologic hazards of the property and waive any claim of liability on the part of the Commission. Given that the applicants have chosen to implement the amended project despite these risks, the applicants must assume the risks. In this way, the applicants are notified that the Commission is not liable for damage as a result of approving the permit amendment for development. The condition also requires the applicants to indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the amended development to withstand hazards. In addition, the requirement of Special Condition No. 12 that a deed restriction be recorded will ensure that future owners of the property will be informed of the risks, the Commission's immunity from liability, and the indemnity afforded the Commission.

Lastly, the Commission notes that Section 30610(a) of the Coastal Act and Chapter 20.532 of the County's Coastal Zoning Code exempt certain additions to existing single-family residential structures from coastal development permit requirements. Pursuant to this exemption, once a house has been constructed, certain additions and accessory buildings that the applicants might propose in the future are normally exempt from the need for a permit or permit amendment. However, in this case because the project site is located within a highly scenic area, future improvements to the approved project are not exempt from permit requirements pursuant to Section 30610(a) and Section 13250(b)(1) of the Commission's regulations. Section 30610(a) requires the Commission to specify by regulation those classes of development, which involve a risk of adverse environmental effects and require that a permit be obtained for such improvements. Pursuant to Section 30610(a) of the Coastal Act, the Commission adopted Section 13250 of Title 14 of the California Code of regulations. Section 13250 specifically authorizes the Commission to require a permit for additions to existing single-family residences that could involve a risk of adverse environmental effect. Moreover, Section 13250(b)(1) indicates that improvements to a single-family structure in an area designated as highly scenic in a certified land use plan involve a risk of adverse environmental effect and therefore are not exempt. As discussed previously, the entire subject property is within an area designated in the certified Mendocino Land Use Plan as highly scenic. Therefore, pursuant to Section 13250(b)(1)

of the Commission's regulations, future improvements to the approved amended development would not be exempt from coastal development permit requirements and the County and the Commission will have the ability to review all future development on the site to ensure that future improvements will not be sited or designed in a manner that would result in a geologic hazard.

The Commission thus finds that as conditioned, the proposed amended development is consistent with the policies of the certified LCP regarding geologic hazards, including LUP Policies 3.4-1, 3.4-7, 3.4-12, and Coastal Zoning Code Sections 20.500.010, 20.015.015, and 20.500.020, since the amended development as conditioned would not contribute significantly to the creation of any geologic hazards, would not have adverse impacts on the stability of the coastal bluff or on erosion, would not require the construction of shoreline protective works, and the Commission would be able to review any future additions to ensure that development would not be located where it might result in the creation of a geologic hazard. Only as conditioned is the proposed amended development consistent with the LCP policies regarding geologic hazards.

5. Visual Resources

Summary of LCP Policies

Section 30251 of the Coastal Act has been specifically incorporated into LUP Policy 3.5-1 of the Mendocino LCP and states in part:

> *The scenic and visual qualities of Mendocino County coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas and, where feasible, to restore and enhance visual qua1ity in visually degraded areas.*

LUP Policy 3.5-3 states in applicable part:

> *The visual resource areas listed below are those which have been identified on the land use maps and shall be designated as "highly scenic areas," within which new development shall be subordinate to the character of its' setting. Any new development permitted in these areas shall provide for protection of ocean and coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes.*
>
> *Portions of the coastal zone within the Highly Scenic Area west of Highway 1 between the Ten Mile River estuary south to the Navarro River as mapped with noted exceptions and inclusions of certain areas east of Highway 1.*
>
> *In addition to other visual policy requirements, new development west of Highway One in designated 'highly scenic areas' is limited to one-story (above natural grade) unless an*

increase in height would not affect public views to the ocean or be out of character with surrounding structures. …New development should be subordinate to the natural setting and minimize reflective surfaces. …

NOTE 1: The LUP Maps designate the area west of Highway One in the project vicinity as highly scenic.

NOTE 2: Coastal Zoning Ordinance 20.504.015(A) reiterates that this section of coastline is a "highly scenic area."

Zoning Code Section 20.504.015(C)(1) states that:

Any development permitted in highly scenic areas shall provide for the protection of coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes.

Zoning Code Section 20.504.015(C)(2) states that:

In highly scenic areas west of Highway 1 as identified on the Coastal Element land use plan maps, new development shall be limited to eighteen (18) feet above natural grade, unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures.

Zoning Code Section 20.504.015(C)(3) states that:

New development shall be subordinate to the natural setting and minimize reflective surfaces. In highly scenic areas, building materials including siding and roof materials shall be selected to blend in hue and brightness with their surroundings.

Zoning Code Section 20.504.015 (C)(12) states that:

Power distribution lines shall be placed underground in designated "highly scenic areas" west of Highway 1 and in new subdivisions…

Discussion

Policy 3.5-1 of the County's LUP provides for the protection of the scenic and visual qualities of the coast, requiring permitted development to be sited and designed to protect views to and along the ocean and to be visually compatible with the character of surrounding areas. Policy 3.5-3 states that new development west of Highway One in designated "highly scenic areas" should be subordinate to the natural setting. The County's Zoning Ordinance reiterates these policies. Specifically, Coastal Zoning Ordinance Section 20.504.015(C)(1) requires that new development in highly scenic areas protect coastal views from public areas including roads and trails. Section

20.504.015(C)(2) of the Zoning Code requires an 18-foot height limit for parcels located west of Highway One in designated highly scenic areas, unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. Coastal Zoning Ordinance Section 20.504.015(C)(3) requires that new development be subordinate to the natural setting and minimize reflective surfaces and requires that in highly scenic areas, building materials including siding and roof materials shall be selected to blend in hue and brightness with their surroundings.

The subject site is a bluff top parcel located west of Highway One in an area designated as "highly scenic" in the Mendocino County LUP. The parcel is densely forested and is situated approximately 80 feet above sea level. The site is vegetated with a dense stand of cypress and pine trees. The site is visible from Lansing Street and Highway One, as well as from Russian Gulch State Park and Mendocino Headlands State Park.

As noted previously, the original permit approved the development of a 24-foot-high, 2,000-square-foot single-family residence with special conditions to ensure that the residence would not result in adverse impacts to visual resources. The special conditions of the original permit pertaining to the protection of visual resources require utilities to be installed underground, and that the exterior finish of the structure blend with and subordinate to the surrounding area.

The residence as proposed to be amended would be redesigned, but would be (1) located in generally the same location as the originally approved residence, (2) approximately the same size, and (3) limited to one story, or six feet lower in height than the original residence.

The original residence was approved at 24 feet in height prior to certification of the Mendocino LCP that limits the height of structures built in highly scenic areas west of Highway One to eighteen (18)-feet above average natural grade and limits the number of stories to one unless an increase in height would not affect views to the ocean, or be out of character with surrounding structures. The residence as proposed to be amended would be one-story and 18-feet-high, six feet lower than the originally approved residence and consistent with the story and height limitations of LUP Policy 3.5-3, and Coastal Zoning Code Section 20.504.015(C)(2).

The applicants submitted elevation plans and construction material information as part of the proposed amendment application that propose the use of dark, earth tones and natural materials including (1) Hardi Plank siding with "Shagbark" stain, (2) Hardi Shake trim and shingles with "Tobacco" stain, (3) Fiberglass front door with "Walnut" stain, (4) Lindal Cedar Homes Cedar clad windows, (5) Trex decking with "Saddle" stain and "Woodland Brown" accents, and (6) Malarkey composition shingles in "Weathered Wood." The proposed exterior building materials and colors would be subordinate to the natural setting, and would blend in hue and brightness with their surroundings consistent with Coastal Zoning Code Section 20.504.015(C)(3). The Commission finds that if the applicant or future owner(s) choose to change the materials or colors of the residence to brighter, non-earth tone colors or materials, the development may no longer be subordinate to the natural setting and may become increasingly visible from public vantage points. To ensure that the exterior building materials and colors used in the construction

of the development as proposed to be amended are compatible with natural-appearing earth tone colors that blend in hue and brightness with their surroundings as proposed, the Commission attaches Special Condition No. 14(A), which requires that all exterior siding and visible exterior components be made of natural-appearing materials of dark earth tone colors only.

The proposed amended design of the residence is consistent with the hue and brightness requirement of Coastal Zoning Ordinance Section 20.504.015(C)(3) as discussed above. However, extensive use of glass building materials could result in an adverse visual impact as viewed from the ocean if the building materials were reflective in nature. Therefore, Special Condition No. 14(A) also requires that non-reflective building materials be used in the construction of the proposed residence to minimize glare. Additionally, Special Condition No. 14(B) requires that exterior lights be shielded and positioned in a manner that will not allow glare beyond the limits of the parcel as required by LUP Policy 3.5-15.

In addition, Commission staff visited the site and found that the proposed residence would be well screened from public vantage points by retaining the large number of existing trees on the site that are greater than 12 inches in diameter at breast height as shown on the site plan (see Exhibit No. 3). The applicants propose to remove 12 trees from the building site and retain the remainder of the existing vegetation in its natural state. The applicants are not proposing additional landscaping as part of the proposed amended project. In this case, additional landscaping is not necessary to minimize the visual impact of the development due to the existing on site vegetation. However, the Commission finds that if the existing trees on the site that are greater than 12 inches in diameter at breast height as shown on the site plan that currently provide screening of the development site were to die and/or be removed, the development would be increasingly visible from public vantage points. Therefore, the Commission imposes Special Condition No. 15 requiring the applicants to (1) maintain the existing trees on the site that are greater than 12 inches in diameter at breast height as shown on the site plan in good health for the life of the project, (2) replace those trees of this size or greater that die or become weakened or are removed for any reason in-kind or with similar sized native trees, and (3) obtain a permit amendment for any proposed limbing or pruning of the visually screening trees already existing.

As conditioned, the amended development is consistent with LUP Policy 3.5-4 and 20.504.015(C)(3) requiring building materials to be of non-reflective surfaces and the amended development will not result in a significant adverse impact to public views as required by LUP Policy 3.5-3 and Zoning Code Section 20.504.015(C)(1).

The applicants propose installing underground utilities consistent with Zoning Code Section 20.504.015(C)(12). Additionally, construction of the proposed amended residence will not involve significant grading or alteration of topographic features consistent with the provisions of LUP 3.5-1 that require that permitted development minimize the alteration of natural landforms.

Therefore, the Commission finds that as conditioned, the proposed amended development is consistent with Policies 3.5-1 and 3.5-3 of the LUP and with Section 20.504.015(C) of the Zoning Code, as the amended development will (1) be within applicable height limits for the designated highly scenic area, (2) be sited and designed to protect coastal views from public areas, (3) be visually compatible with the character of surrounding areas, (4) be subordinate to the character of its setting, (5) place power distribution lines underground, and (6) minimize alteration of natural landforms.

6. Water Quality

Summary of LCP Provisions

LUP Policy 3.1-25 states:

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

Coastal Zoning Code Section 20.492.020(B) incorporates sedimentation standards and states in part:

> *"(B) To prevent sedimentation of off-site areas, vegetation shall be maintained to the maximum extent possible on the development site. Where necessarily removed during construction, native vegetation shall be replanted to help control sedimentation.*
>
> *(C) Temporary mechanical means of controlling sedimentation, such as hay baling or temporary berms around the site may be used as part of an overall grading plan, subject to the approval of the Coastal Permit Administrator."*

Discussion

The project as proposed to be amended involves the construction of a 2,000-square-foot single-family residence, an attached garage, septic system, and gravel driveway. As discussed previously, the subject parcel is located on a coastal terrace atop a steep coastal bluff. Runoff originating from the development site that is allowed to drain over the bluff edge or drain indirectly to the ocean could contain entrained sediment and other pollutants in the runoff that would contribute to degradation of the quality of marine waters.

LUP Policy 3.1-25 requires the protection of the biological productivity of coastal waters. Section 20.492.020 of the Mendocino County Coastal Zoning Code sets forth sedimentation standards to minimize sedimentation of off-site areas. Specifically, Section 20.492.020(B) requires that the maximum amount of vegetation existing on the development site shall be

maintained to prevent sedimentation of off-site areas, and where vegetation is necessarily removed during construction, native vegetation shall be replanted afterwards to help control sedimentation.

As discussed in Section 4. Geologic Hazards above, the geotechnical report recommends that all concentrated flows such as those from roof downspouts, driveways, and drains should be dispersed onto the ground surface on the inland sides of the residence and away from the bluff edge. Special Condition No. 10 requires that the final construction plans for the residence adhere to the design recommendations specified in the geotechnical report, and that the proposed amended development be constructed consistent with these recommendations, including that all drainage be directed away from the bluff edge. This condition will ensure the protection of the biological productivity of coastal waters consistent with LUP Policy 3.1-25 in that site drainage will not be directed over the bluff edge in a manner that would adversely affect water quality.

As discussed previously, the subject parcel is located on a bluff top property. Runoff originating from the development site that is allowed to drain down the bluff toward the ocean could contain entrained sediment and other pollutants in the runoff that would contribute to degradation of the quality of coastal waters. The increase in impervious surface area associated with the amended development will decrease the infiltrative function and capacity of the existing permeable land on site. The reduction of permeable surface area will lead to a small increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Sediment and other pollutants entrained in stormwater runoff from the development that is carried down the bluff to the ocean contribute to degradation of the quality of coastal waters and any intervening sensitive habitat. Other than removing trees and vegetation from within the building site, the applicants propose to retain the majority of the site in a vegetated condition which will continue to allow for infiltration of stormwater, thereby greatly reducing the potential that runoff from the completed development would affect coastal waters. Therefore, sedimentation impacts from runoff would be of greatest concern during construction. Construction of the amended development will expose soil to erosion and entrainment in runoff, particularly during the rainy season. To ensure that best management practices (BMPs) are implemented to control the erosion of exposed soils and minimize sedimentation of coastal waters during construction, the Commission attaches Special Condition No. 16. This condition requires the implementation of Best Management Practices (BMPs) to control erosion and sedimentation during and following construction. These required BMPs include (a) disposing of any excess excavated material resulting from construction activities at a disposal site outside the coastal zone or within the coastal zone pursuant to a valid coastal development permit; (b) installing straw bales, coir rolls, or silt fencing structures to prevent runoff from construction areas from draining toward the bluff, (c) maintaining on-site vegetation to the maximum extent possible during construction activities; (d) replanting any disturbed areas as soon as feasible following completion of construction; (e) containing all on-site stockpiles of construction debris at all times to prevent polluted water runoff; (f) protecting the canopy and root zones of existing living trees on site through temporary fencing or screening during construction, and (g) limiting grading to the dry season between April 15th and October 31st.

Therefore, the Commission finds that as conditioned, the proposed amended development is consistent with Section 20.492.020 because erosion and sedimentation will be controlled and minimized. Furthermore, the Commission finds that the proposed amended development as conditioned is consistent with the provisions of LUP Policy 3.1-25 requiring that the biological productivity of coastal waters be sustained because storm water runoff from the proposed development will be directed away from the coastal bluff.

7. Locating New Development

Summary of LCP Provisions

Policy 3.9-1 of the Mendocino County LUP states that new development shall be located in or in close proximity to existing areas able to accommodate it, and shall be regulated to prevent any significant adverse effects, either individually or cumulatively, on coastal resources. Policy 3.8-1 of the LUP requires consideration of Highway One capacity and availability of water and sewage disposal when considering applications for coastal development permits. The intent of the policy is to channel development toward more urbanized areas where services are provided and potential impacts to resources are minimized.

Policy 3.8-1 states that Highway 1 capacity, availability of water and sewage disposal system and other known planning factors shall be considered when considering applications for development permits.

Zoning Code Section 20.376.025 provides for one dwelling unit per residentially designated parcel.

Discussion

The subject property is designated in the Mendocino County LUP and Coastal Zoning Code as Rural Residential, 5-acres. The proposed amendment involves the construction of a single-family residence located in an area planned for single-family residential use. Therefore, the proposed single-family residence is consistent with the LUP and zoning designation use limitations for the site.

Development of the site as a single-family residence is envisioned under the certified LCP. The significant cumulative adverse impacts on traffic capacity of Highway One from development approved pursuant to the certified LCP were addressed at the time the LCP was certified. Therefore, as conditioned, the proposed single-family residence is located in an area able to accommodate the amended development and will not result in adverse impacts to the traffic capacity of Highway One consistent with the applicable provisions of LUP Policy 3.8-1.

The proposed amended development would be served by an existing on site test well that was installed pursuant to the original permit (CDP No. 79-CC-208, Bernhard), which would be converted to a production well. The proposed amendment includes the installation of a septic

system that has been redesigned from that approved under the original permit to meet current design standards. The Mendocino County Division of Environmental Health has determined that the proposed septic system would have adequate capacity to serve the proposed amended development and has granted its approval.

As discussed above, the amended development has been conditioned to include mitigation measures, which will minimize all significant adverse environmental impacts. The Commission finds, therefore, that as conditioned, the amended development is consistent with LUP Policies 3.9-1, 3.8-1, and with Zoning Code Sections 20.368.025 and 20.458.010, because there will be only one residential unit on the parcel, there will be adequate services on the site to serve the proposed development, and the project will not contribute to significant adverse cumulative impacts on highway capacity, scenic values, geologic hazards, water quality, or other coastal resources.

8. Front Yard Setback Requirements

Summary of LCP Policies

CZC Section 20.376.040 states:

> *Any nonconforming parcel which is less than five (5) acres and which is zoned RR:L-5 or RR:L-10 shall observe a minimum front, side and rear yard of twenty (20) feet. (Ord. No. 3785 (part), adopted 1991)*

CZC Section 20.444.020, Corridor Preservation Setback, states:

> *There is hereby established a corridor preservation setback. A corridor preservation setback shall apply to all lots or parcels that abut a publicly maintained street or highway. A corridor preservation setback shall be in addition to front yard setbacks prescribed elsewhere in this Division and shall apply in districts that prescribe no front-yard setback. Corridor preservation setbacks shall be measured perpendicular from the center line of the existing right-of-way of record or, where no recorded right-of-way exists, from the center of the physical road. Corridor preservation setbacks shall be as follows:* (emphasis added)

GENERAL PLAN ROAD CLASSIFICATION	CORRIDOR PRESERVATION SETBACK	
	URBAN	RURAL
Principle Arterial	60'	60'
Minor Arterial	45'	40'
Connector	45'	35'
Major Collector	45'	35'
Minor Collector	35'	30'
Local Connector	30'	30'
Local Road	25'	25'

CZC Section 20.540.020 states as follows:

Before any variance may be granted or modified it shall be shown:

(A) That there are special circumstances applicable to the property involved, including size, shape, topography, location, or surroundings; and

(B) That such special circumstances or conditions are not due to any action of the applicant subsequent to the application of the zoning regulations contained in this Division and applicable policies of the Coastal Element; and

(C) That such variance is necessary for the preservation and enjoyment of privileges possessed by other property in the same vicinity and zone and denied to the property in question because of the special circumstances identified in Subsection (A); and

(D) That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and zone in which the property is located; and

(E) That the variance does not authorize a use or activity that is not otherwise expressly authorized by the zoning provisions governing the parcel; and

(F) That the granting of such variance is in conformity with all other provisions of this Division and the Mendocino Coastal Element and applicable plans and policies of the Coastal Act. (Ord. No. 3785 (part), adopted 1991)

Discussion:

The proposed amendment raises an issue of conformance with the front yard setback requirements of the LCP. The originally approved residence, which was approved by the North Coast Regional Commission prior to certification of the Mendocino County LCP, was sited 30 feet from the western edge of Lansing Street. As the certified LCP is now the standard of review for the proposed amendment rather than the Coastal Act, the proposed amended development is subject to the current setback requirements of the applicable zoning district.

CZC Section 20.376.040 requires a 20-foot front yard setback on properties zoned RR-5 that are less than five acres. Additionally, as the project site abuts Lansing Street, which is considered a "Major Collector Road" on County maps, CZC Section 20.444.020 requires a corridor preservation setback of 35 feet from the centerline of Lansing Street in addition to the front yard setback. Thus, the LCP requires a front yard setback of either 55 feet from the road corridor centerline, or 20 feet from the property line, whichever is greater. The applicants propose to site the amended residence 30 feet from Lansing Street, similar to the originally approved house

location. Therefore, as proposed, unless the amended development qualifies for a variance, it would not meet the current LCP front yard setback requirements described above.

As cited above, CZC Section 20.540.020 sets forth criteria for granting a variance to the setback requirements. Following its review of the proposed amendment, the County stated in a letter dated June 12, 2007 that "*the County will honor the 30 foot setback included in the vested permit…approved with special conditions in February of 1980. At that time, the setback was approved at 30 feet from Lansing Street. Since the permit is still considered a vested permit, the approved 30 foot setback is still acceptable*." Therefore, the County asserts that a variance is not necessary to allow the proposed 30-foot front yard setback.

Nonetheless, the Commission must find that the development as proposed to be amended would be consistent with the Mendocino County LCP. As noted above, unless the amended development qualifies for a variance, the development as proposed to be amended is not consistent with the setback requirements applicable to the property. However, the amended development could still be found to be consistent with the LCP if the amended development were found to meet the criteria included in the certified LCP for granting a variance to the setback requirements. CZC Section 20.540.020 sets forth six criteria that must be met before any variance may be granted including that (a) there are special circumstances applicable to the property involved, including size, shape, topography, location, or surroundings; (b) such special circumstances or conditions are not due to any action of the applicant subsequent to the application of the zoning regulations contained in this Division and applicable policies of the Coastal Element; (c) such variance is necessary for the preservation and enjoyment of privileges possessed by other property in the same vicinity and zone and denied to the property in question because of the special circumstances identified in Subsection (a); (d) the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and zone in which the property is located; (e) the variance does not authorize a use or activity that is not otherwise expressly authorized by the zoning provisions governing the parcel; and (f) the granting of such variance is in conformity with all other provisions of this Division and the Mendocino Coastal Element and applicable plans and policies of the Coastal Act.

In this case, regarding subsection (a) of CZC Section 20.540.020, the Commission finds that there are special circumstances applicable to the subject property regarding its size, shape, topography, location, and surroundings. The project site is a long, narrow strip of land constrained by blufftop setbacks on the west and front yard and roadway setbacks on the east. As discussed in Finding 4, Geologic Hazards, a geologic setback of 63 feet from the northwest bluff edge and 51 feet from the southwest bluff edge is required, thus limiting the potential location of the building envelope on the easternmost portion of the parcel. Applying both the required bluff setbacks pursuant to the geologic hazard policies of the LCP and the required 55-foot front yard/roadway setback would leave insufficient area to construct even a modestly sized residence, thus making it infeasible for the proposed amended development to conform to all applicable setback requirements. These constraints are inherent in the configuration and natural characteristics of the subject property and are not due to any action of the applicants, and thus

subsection (b) of CZC Section 20.540.020 has been met by the circumstances of the proposed amended development.

Regarding subsection (c) of CZC Section 20.540.020, the Commission finds that a reduced front yard setback is required in this case for the applicants to develop even a modest size residence as other residents have in the surrounding residentially zoned neighborhood. The residence as proposed to be amended is approximately 2,000 square feet, which is relatively small and does not incorporate an unusual design for the neighborhood. Thus, granting a reduced front yard setback in this case is necessary to afford the applicants the same development potential enjoyed by other property owners in the vicinity while accommodating the physical constraints of the blufftop property.

Regarding subsection (d) of CZC Section 20.540.020, the Commission finds that reducing the front yard setback in this case would not be materially detrimental to the public welfare or injurious to the property or improvements in the surrounding rural residential area. Rather, the reduced front yard setback would ensure conformance with the geologic hazard requirements necessary for the protection of the public welfare and the development itself, while still allowing for the permissible residential use of the site. Furthermore, the reduced front yard setback would not result in the encroachment of the proposed amended development into any environmentally sensitive habitat area, into the public access area located to the north of the proposed home site, or into any other existing surrounding development in a manner that would be detrimental to the public welfare or injurious to surrounding property or improvements.

Regarding subsection (e) of CZC Section 20.540.020, as discussed in Finding #7 above, the subject property is designated in the Mendocino County LUP and Coastal Zoning Code as Rural Residential, 5-acres. The proposed amendment involves the construction of a single-family residence located in an area planned for single-family residential use. Therefore, the proposed single-family residence is consistent with the LUP and zoning designation use limitations for the site. The reduced front yard setback would not involve authorizing a use or activity that is not otherwise expressly authorized by the zoning provisions governing the parcel.

Lastly, as discussed in the findings contained herein, the Commission finds that as conditioned, the development as amended conforms with all other applicable provisions of the Mendocino County LCP and the public access and recreation policies of the Coastal Act consistent with the requirements of subsection (f) of CZC Section 20.540.020.

Therefore, the Commission finds that in this case, the development as proposed to be amended with a reduced 30-foot front yard setback is consistent with the variance criteria set forth in CZC Section 20.540.020.

9. Protection of Environmentally Sensitive Habitat Areas (ESHA)

Summary of LCP Policies

LUP Policy 3.1-7 in applicable part states:

> *A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from significant degradation resulting from future developments. The width of the buffer area shall be a minimum of 100 feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning Staff, that 100 feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development.…*
>
> **…**

LUP Policy 3.1-10 states:

> *Areas where riparian vegetation exists, such as riparian corridors, are environmentally sensitive habitat areas and development within such areas shall be limited to only those uses which are dependent on the riparian resources. All such areas shall be protected against any significant disruption of habitat values by requiring mitigation for those uses which are permitted. No structure or development, including dredging, filling, vegetation removal and grading, which could degrade the riparian area or diminish its value as a natural resource shall be permitted in the Riparian Corridor except for:*
>
> - *Channelizations, dams, or other substantial alterations of rivers and streams as permitted in Policy 3.1-9;*
>
> - *pipelines, utility lines and road crossings, when no less environmentally damaging alternative route is feasible;*
>
> - *existing agricultural operations;*
>
> - *removal of trees for disease control, public safety purposes, or for firewood for the personal use of the property owner at his or her residence. Such activities shall be subject to restrictions to protect the habitat values.*

Section 20.496.020 of the Coastal Zoning Ordinance states in applicable part:

> *ESHA- Development Criteria*
>
> *(A) Buffer areas. A buffer shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from degradation resulting from future developments and shall be compatible with the continuance of such habitat areas.* **…**

LUP Policy 3.1-7 requires that buffers be established to protect ESHA from significant degradation resulting from future developments on the property. LUP Policy 3.1-10 requires that riparian ESHA be protected against any significant disruption of habitat values. CZC Section 20.496.020 requires that buffers be established to protect the environmentally sensitive habitat from degradation resulting from future developments and be compatible with the continuance of such habitat areas.

The subject property does not contain any known environmentally sensitive habitat. However, the site is located adjacent to coastal bluffs suitable for the growth of rare plant species and is located approximately 300 feet from the riparian habitat associated with Jack Peters Creek.

The Commission finds that the ESHA located near the site could be adversely affected if non-native, invasive plant species were introduced in landscaping at the site. Introduced invasive exotic plant species could physically spread into the ESHA and displace native riparian and wetland vegetation thereby disrupting the values and functions of the ESHAs. The seeds of exotic invasive plants could also be spread to nearby ESHA by wind dispersal or by birds and other wildlife. The applicant is not proposing to plant any exotic invasive plants as part of the proposed project. However, to ensure that the ESHA near the site is not significantly degraded by any future landscaping that would contain invasive exotic species, the Commission attaches Special Condition No. 15(C) that requires only native and/or non-invasive plant species be planted at the site.

In addition, the Commission notes that certain rodenticides, particularly those utilizing blood anticoagulant compounds such as brodifacoum, bromadiolone and diphacinone, have been found to poses significant primary and secondary risks to non-target wildlife present in urban and urban/wildland interface areas. As these target species are preyed upon by raptors or other environmentally sensitive predators and scavengers, the pest control compounds can bio-accumulate in the animals that have consumed the rodents to concentrations toxic to the ingesting non-target species. To avoid this potential cumulative impact to environmentally sensitive wildlife species, Special Condition No. 15(D) contains a prohibition on the use of such anticoagulant-based rodenticides.

With the mitigation measures discussed above, which are designed to minimize any potential impacts to the adjacent environmentally sensitive habitat area, the project as conditioned will not significantly degrade adjacent ESHA and will be compatible with the continuance of the habitat area. Therefore, the Commission finds that the amended development as conditioned is consistent with the ESHA protection policies of the LCP.

10. Public Access

Projects located between the first public road and the sea and within the coastal development permit jurisdiction of a local government are subject to the coastal access policies of both the Coastal Act and the LCP. Coastal Act Sections 30210, 30211, and 30212 require the provision

of maximum public access opportunities, with limited exceptions. Section 30210 states that maximum access and recreational opportunities shall be provided consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. Section 30211 states that development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. Section 30212 states that public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, adequate access exists nearby, or agriculture would be adversely affected.

In its application of the above policies, the Commission is limited by the need to show that any denial of a permit application based on this section, or any decision to grant a permit subject to special conditions requiring public access is necessary to avoid or offset a project's adverse impact on existing or potential access.

In its approval of the original permit (79-CC-208), the North Coast Regional Commission found that the northern shelf of the subject site provided potential public access opportunities for a scenic overlook as well as potential access to the ocean at Jack Peters Creek. The original permit required recordation of an offer to dedicate an easement for public pedestrian access over the northerly one-fourth (150 feet) of the 4.5-acre parcel, including a small beach at the mouth of Jack Peters Creek. The OTD was recorded by the original applicant and was accepted by the Coastal Conservancy in 1983 and opened to the public. The above-ground portions of the proposed amended development would be located approximately ___ feet from the recorded public access easement area. Additionally, the proposed amended development is separated from the recorded easement area by several large intervening cypress and pine trees. Thus, the Commission finds that adequate public access exists at the site. Furthermore, the proposed project as amended would not (a) adversely affect the public access area, or (b) create any additional demand for public access or otherwise create any additional burdens on public access.

Therefore, the Commission finds that the proposed amended development does not have any significant adverse impact on existing public access, and that the project as proposed to be amended is consistent with the requirements of the Coastal Act Sections 30210, 30211, and 30212 and the public access policies of the County's certified LCP.

11. <u>California Environmental Quality Act (CEQA)</u>.

Mendocino County is the lead agency for purposes of CEQA review. The County determined that the proposed project is categorically exempt (Class 3) from CEQA requirements.

Section 13096 of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA

prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. The Commission incorporates its findings on LCP and Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the development as amended has been conditioned to be found consistent with the policies of the certified Mendocino County LCP and the public access and recreation policies of the Coastal Act. Mitigation measures which will minimize all adverse environmental impacts have been required as permit amendment special conditions. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the development as amended and conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

Exhibits:

1. Regional Location Map
2. Vicinity Map
3. Proposed Amended Project Plans
4. Excerpts of Geotechnical Report
5. Original Staff Report 79-CC-208

ATTACHMENT A:

STANDARD CONDITIONS

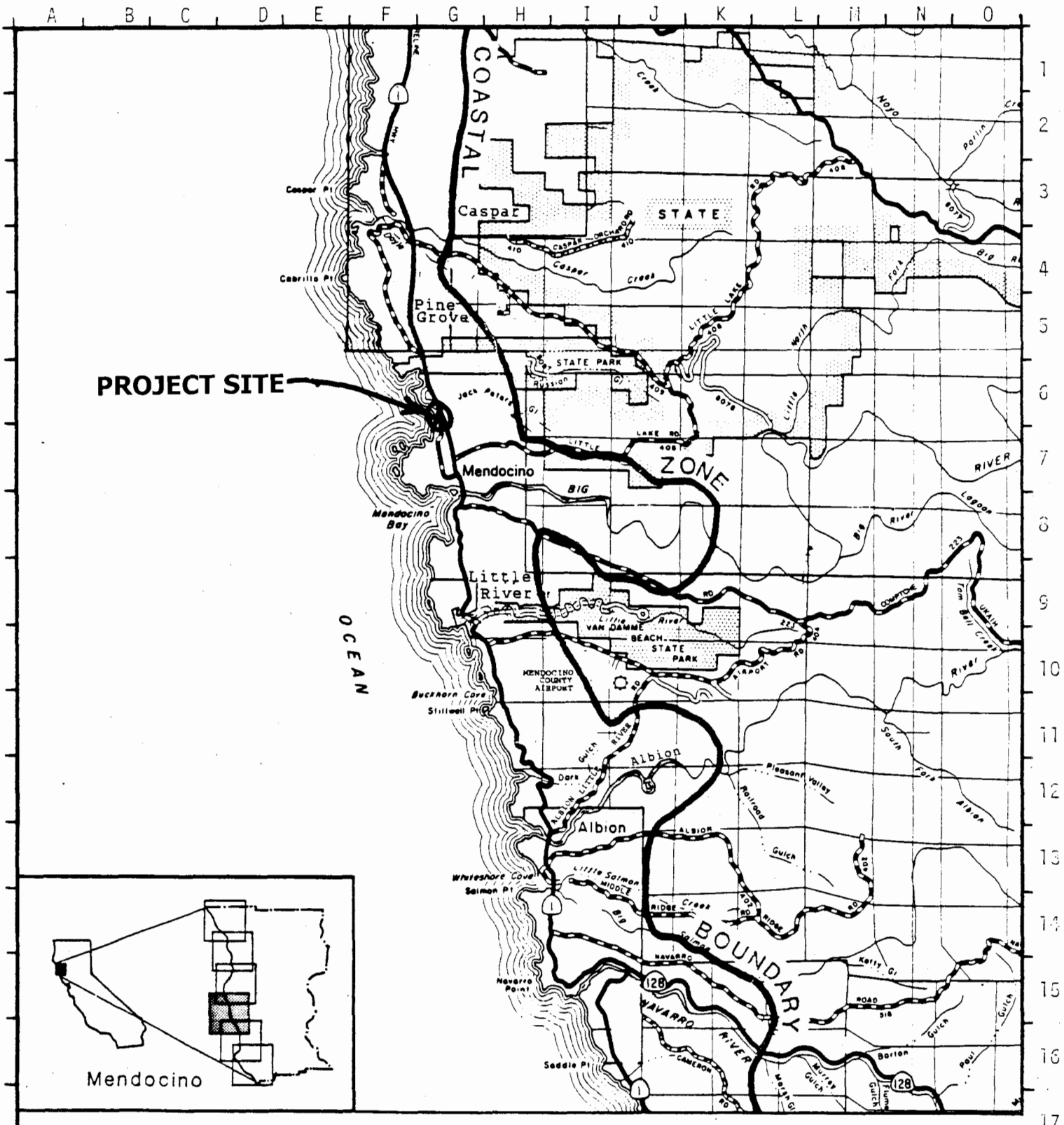
1. Notice of Receipt and Acknowledgement. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

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 the terms and conditions.



California Coastal Commission

LOCATION MAP

County of Mendocino

EXHIBIT NO. 1

APPLICATION NO.
1-85-014-A1

RICHE

REGIONAL LOCATION MAP

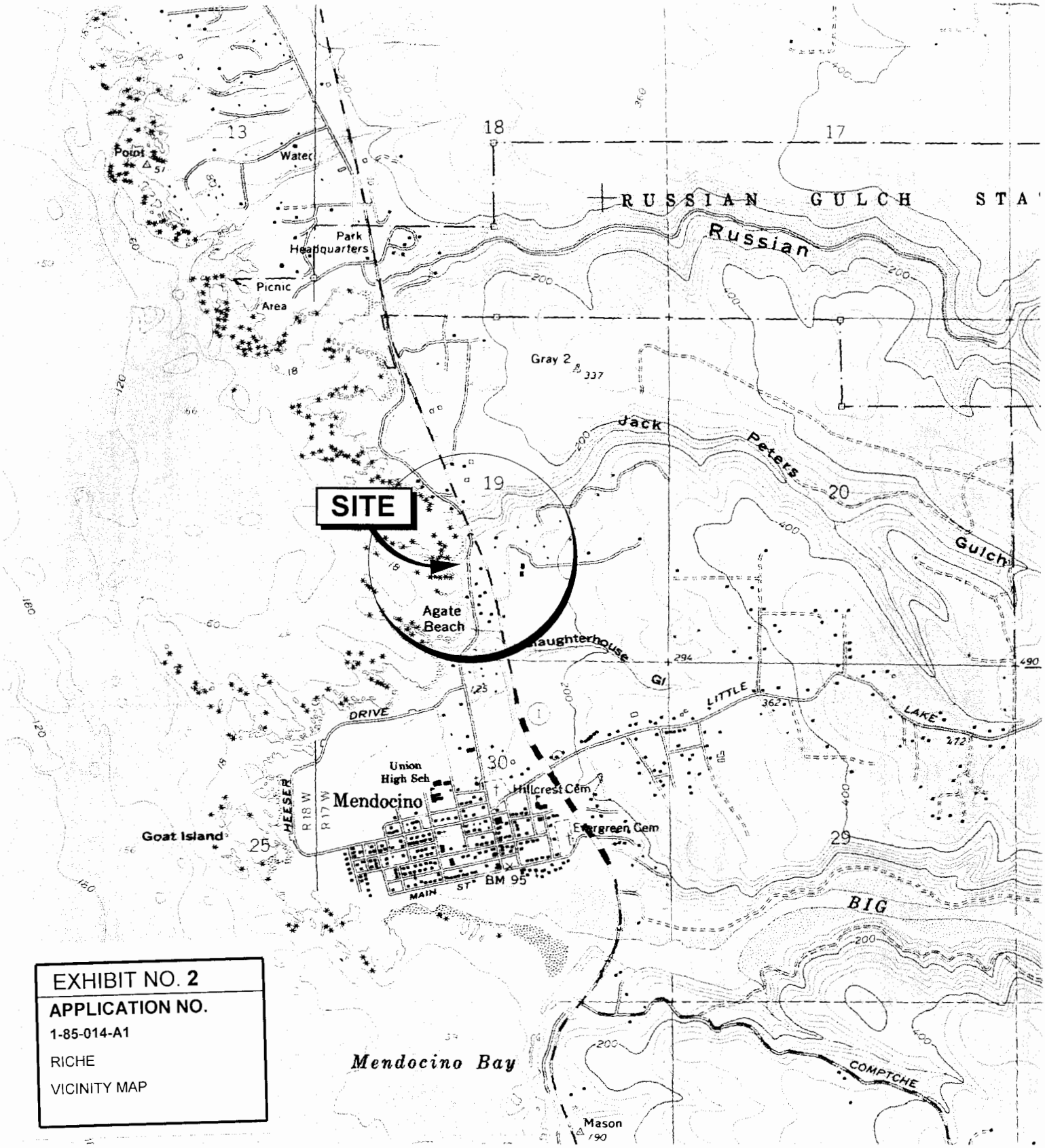


EXHIBIT NO. 2

APPLICATION NO.

1-85-014-A1

RICHE

VICINITY MAP

REFERENCE:

Mendocino, 1978,
7.5 Minute Quadrangle Topographic Map, USGS

NORTH

APPROXIMATE SCALE (FEET)

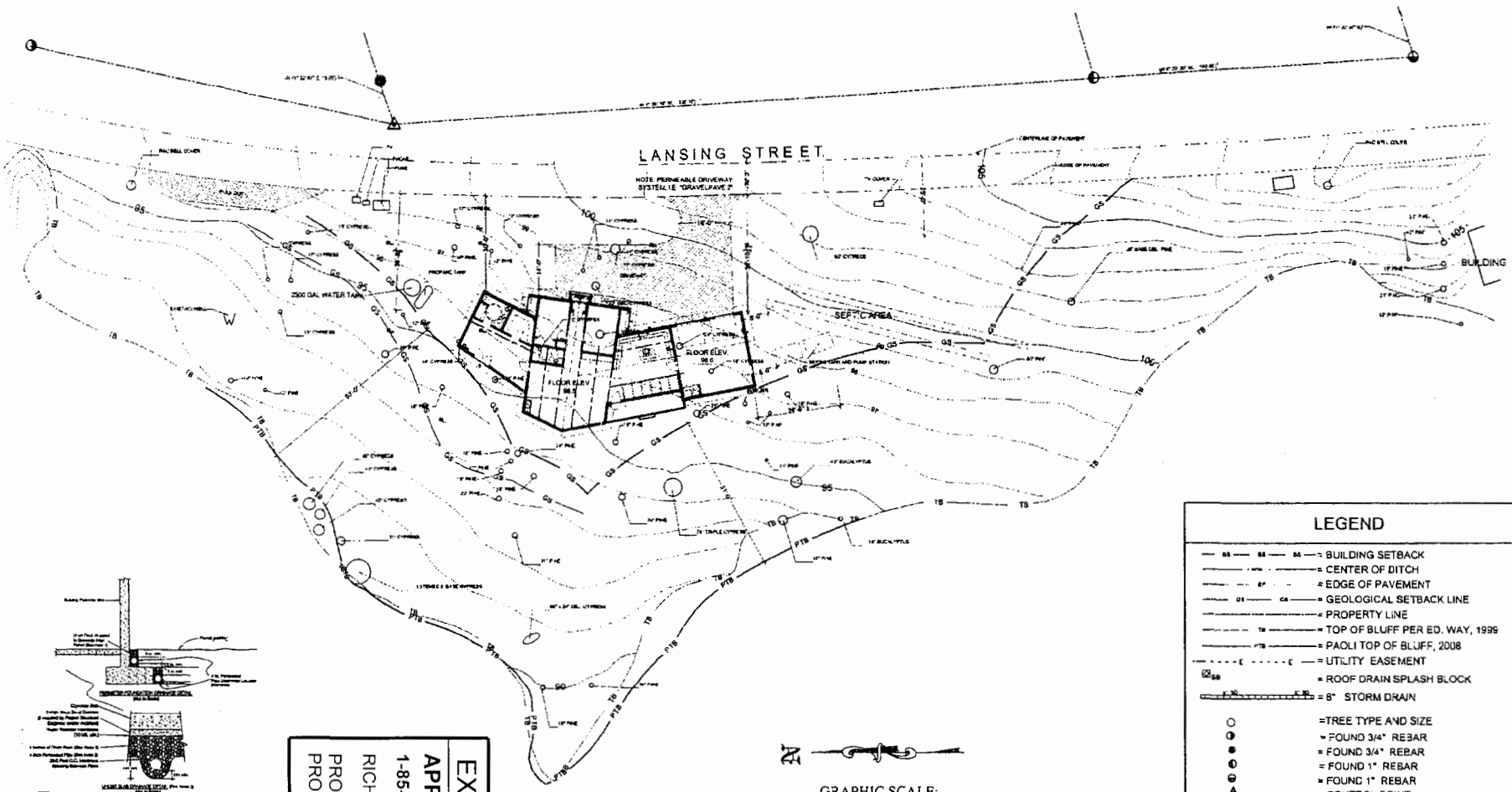
0 1,000 2,000 4,000

BACE Geotechnical
a division of
Brunsing Associates, Inc.
(707) 528-6108

Job No.: 11234.3
Appr.: EEO
Date: 03/24/08

VICINITY MAP
RICHE RESIDENCE
11400 Lansing Street
Mendocino, California

PLATE
1



LEGEND

- = BUILDING SETBACK
- = CENTER OF DITCH
- = EDGE OF PAVEMENT
- = GEOLOGICAL SETBACK LINE
- = PROPERTY LINE
- = TOP OF BLUFF PER ED. WAY, 1999
- = PAOLI TOP OF BLUFF, 2008
- = UTILITY EASEMENT
- = ROOF DRAIN SPLASH BLOCK
- = 8" STORM DRAIN
- =TREE TYPE AND SIZE
- = FOUND 3/4" REBAR
- = FOUND 3/4" REBAR
- = FOUND 1" REBAR
- = FOUND 1" REBAR
- = CONTROL POINT
- = RECORD DATA PER MC2, D23, P98, M.C.R.
- = RECORD DATA PER MC2, D55, P28, M.C.R.

NOTE:
SITE PLAN IS BASED ON SURVEY BY EDWARD WAY, L.S., DATED FEBRUARY, 1999

EXHIBIT NO. 3
APPLICATION NO.
1-85-014-A1
RICHE
PROPOSED AMENDED PROJECT PLANS (1 of 4)

PAOLI
Sheet 1
SITE PLAN AND DRAINAGE PLAN
NEW RESIDENCE
FOR: LARRY AND CARMEN RICHE
11400 LANSING STREET
MENDOCINO, CA.

NEW RESIDENCE
FOR: LARRY AND CARMEN RICHE
11400 LANSING STREET
MENDOCINO, CA

FLOOR PLAN

PAOLI

SHEET 2 OF 4

* Created for Lindal Cedar Homes by CUSTOM DESIGN SERVICES

Lindal

WEST ELEVATION

NORTH ELEVATION

NEW RESIDENCE
FOR: LARRY AND CARMEN RICHE
11400 LANSING STREET

ELEVATIONS

PAOLI

SHEET
3
OF
4

DRAWN BY: JK DATE:	NEW RESIDENCE	ELEVATIONS	SHEET 4 OF 4
CHECKED BY: RP	FOR: LARRY AND CARMEN RICHE		
REVISED 2/19/08 BY: JK	11400 LANSING STREET		
JOB #: 0616	MENDOCINO, CA.		

BACE Geotechnical
A Division of Brunsing Associates, Inc.

March 24, 2008

Larry and Carmen Riche
35534 Collier Place
Fremont, CA 94536

RE: Bluff Stability And Aerial Photograph Analyses, Revised Bluff Setback and Seismic Design Criteria, Proposed Residence, 11400 Lansing Street, Mendocino County, California

Dear Mr. & Mrs. Riche:

This letter updates our previous, September 26, 2006 Project Update Letter and our June 27, 2000 Geotechnical Investigation report for your planned residence at 11400 Lansing Street, Mendocino County, California. The project site is located on the west side of Lansing Street, approximately 400 feet south-southwest of the Lansing Street – Highway One intersection, as shown on the Vicinity Map, Plate 1.

The purpose of our current studies are to review our previous report recommendations, re-observe the bluff-top property to evaluate changes that may have occurred at the site since 1998 (BACE's initial reconnaissance) through 2008, perform a stability analysis, and review the project plans. The scope of our services, as outlined in our Service Agreement dated May 22, 2006, consisted of site observations, consultation, plan review letter writing, and geotechnical engineering services during construction.

2007 and 2008 Site Observations

Our Principal and Staff Engineering Geologists met with David Paoli of Paoli Engineering and Surveying and Mark Johnsson and Robert Merrill of the California Coastal Commission at the property on November 2, 2007. In addition, our Principal and Staff Engineering Geologists met with David Paoli at the site on February 8, 2008 to observe the bluff edge at the property. At that time, Mr. Paoli had completed a topographic survey of the property that re-defined the bluff edge from previous surveys.

Our 1998 reconnaissance letter, and our 2000 investigation report provided bluff retreat rates of 8 inches per year for the northeast bluff, and 6 inches per year for the southwest bluff. Although not previously stated, these retreat rates include a safety factor of at least 1.5.

No evidence of recent (last few years) deep landslide activity or gross instability was observed on the bluff at this property. Qualitative comparison of recent observations/photographs with oblique aerial photographs reveals no major natural changes to the bluff face at the site.

Examining file photographs, it appears that an average of several inches of retreat have occurred since 1998. In one local area of the northwest bluff, a stand of several, large eucalyptus trees fell off the bluff edge, resulting in a localized loss of several feet in one winter. Based upon the above comparisons of the bluffs from 1998 up to the present, as well as comparisons of the present bluffs with the 1963 and the 1981 aerial photographs, the actual, average retreat during this time appears to be less than the estimated, average rates previously provided. Therefore, our previous bluff retreat estimates still appear reasonable.

Bluff Slope Stability

Our bluff stability analyses were performed to correspond to the guidelines by Dr. Mark J. Johnsson, Staff Geologist, California Coastal Commission, "Establishing Development Setbacks from Coastal Bluffs", Proceedings, California and the World Ocean '02, in which he suggests a factor of safety greater than or equal to 1.5 for static conditions and 1.1 for seismic conditions is necessary for the area beyond the required setback distance.

The location of Cross Section A-A' and B-B' used for our stability analysis is shown on attached Plate 2. Partial cross sections A and B are shown on Plate 2A. Our original boring logs and laboratory test data sheets are presented on Plates 3 through 5.

Four soil/rock "units", with different density and strength parameters, were delineated within the bluff for our stability analysis. Units "1" and "2" are the upper, relatively thin deposit of loose to medium dense, silty sand, Pleistocene terrace deposits. Unit "3" is the upper moderately weathered sandstone beneath the terrace deposits. Unit "4" is the lower, moderately to little weathered, sandstone and shale.

For our stability analysis Unit "1" was assigned a wet density of 120 pounds per cubic foot (pcf), and low strength parameters; cohesion (C) of 50 pounds per square foot (psf), and a friction angle (phi) of 44 degrees. Unit "2" was assigned a wet density of 120 pcf, and low strength parameters; C of 50 psf and phi of 38. These values are "typical" for the surficial soils and terrace deposits at similar sites on the Mendocino Coast.

Unit "3" was assigned a wet density of 140 pcf, and the following strength parameters; C of 900 psf and phi of 27 degrees. Unit "4" was assigned a wet density of 145 pcf, C of 2000 psf and a phi of 35 degrees.

The above assigned strengths were determined from strength test results obtained from this site, as well as from back-analysis of the bluff stability calculations. The results of our stability analyses are presented in Appendix A.

Seismic Design Criteria

The proposed structures should be designed and constructed to resist the effects of strong ground shaking (on the order of Modified Mercalli Intensity IX) in accordance with current building codes. The California Building Code (CBC), 2007 edition, indicates that the following seismic design parameters are appropriate for the site:

Site Class = C	
Mapped Spectral Response Acceleration at 0.2 sec	S_S = 1.558g
Mapped Spectral Response Acceleration at 1.0 sec	S_1 = 0.788g
Design Spectral Response Coefficient at 0.2 sec	S_{DS} = 1.038g
Design Spectral Response Coefficient at 1.0 sec	S_{D1} = 0.683g
Seismic Design Category (SDC)	SDC = E

Aerial Photograph Analysis

Copies of the 1963, 1981, and 2000 aerial photographs used during our investigation are attached to this letter as Plates 6, 7, and 8, respectively. The attached photograph copies show the areas of measurements referenced below. The steps of our analysis were as follows:

- BACE determined the 1963, 1981, and 2000 aerial photograph scales by measuring identical points on the photographs with physical features in the field. For this study, the distance between two driveway centerline – Lansing Street intersections, Points C and C', as shown on the attached aerial photographs, was used for photograph scale determination.
- A point on the southwest bluff edge adjacent to the building envelope, Point D, was measured back to the centerline of Lansing Street, Point D'. These distances for each photograph are summarized as follows:
  - 1963 – 117 feet.
  - 1981 – 114 feet.
  - 2000 – 105 feet
- For the southwest bluff, BACE determined a retreat rate of 4.0 inches per year for the 37-year period between 1963 and 2000. Although not previously stated, the 4-inches per year was increased by a safety factor of 1.5 up to 6-inches per year to allow for the possibility of localized landsliding (rock falls) and the potential effects of a rise in sea level.
- Accurate, aerial photograph measurements could not be made on the northwest bluff, due to the tree cover over that area. Instead, the photographs were studied "qualitatively".
- Since the northwest bluff is more exposed to the prevailing northwest waves, we increased the previously-determined retreat rate for the southwest bluff by one third, resulting in an estimated retreat rate of 5.33-inches per year for the northwest bluff. Adding a safety factor of 1.5, we estimated a retreat rate of 8-inches per year for the northwest bluff.

- The bluff setbacks of 50 feet and 38 feet for the northwest and southwest bluffs, respectively, remain suitable along with the additional 13 feet determined by the above stability analyses for this project. Thus, our revised bluff setbacks are 63 and 51 feet from the northwest and southwest bluffs, respectively.

Review of USGS Open-File Report 2007-1133

BACE has reviewed USGS Open-File Report 2007-1133, "National Assessment of Shoreline Change, Part 4: Historical Coastal Cliff Retreat Along The California Coast", by Cheryl J. Hapke and David Reid. The report presents bluff retreat evaluations based upon comparing historical bluff edges digitized from maps, with recent bluff edges interpreted from lidar. The historical bluff edges are from 1920's – 1930's National Ocean Service (NOS) topographic maps (T-sheets). Unfortunately, no examples of a T-sheet or a description of how they were prepared were included in the USGS report. Further, no estimate of the accuracy of the bluff edges on these T-sheets is presented in the report.

The subject property is within the "Navarro region" which the USGS report authors define as the area extending from "Point Delgada in the north to Point Arena in the south". For the Navarro region, the report states that the average, regional retreat rate is 0.4 meters per year (1.3 feet per year). BACE disagrees with that high of an average retreat rate, for the following reasons:

- The undersigned, Erik Olsborg, has been visiting the Mendocino coast since the early 1960's. Mr. Olsborg has been performing geologic studies on the Mendocino coast since 1977. In this past 31 years the average coast retreat would have been 40.3 feet if the USGS report's stated retreat rate were accurate. Mr. Olsborg has not seen evidence of a retreat rate of that magnitude, except in localized, distressed areas.
- Re-visiting former project sites, Mr. Olsborg has observed average retreat rates that conform with his initial estimates of several inches per year. For example, Mr. Olsborg investigated planned additions for neighboring house "E" shown on the 1963, 1981 and 2000 aerial photographs, Plates 6, 7 and 8, respectively, in 1985 while with the firm of Field Engineering Associates, Inc. At that time, the distance between the house and the bluff edge was visually estimated to be 30 feet (unfortunately, no direct measurement was made). In 2007, for a prospective buyer, Mr. Olsborg measured the house-bluff distance to be approximately 27 feet. If the 1985 visual estimate was reasonably accurate, the bluff eroded back 3 feet between 1985 and 2007, resulting in a retreat rate of 1.6 inches per year.
- In contrast, landslide "F", shown along Lansing Street in the aerial photographs, has retreated 50 feet or more between 1963 and 2000, resulting in a localized retreat rate of 19 inches, or more per year. However, the over-all average bluff retreat rates for the bluffs visible in the aerial photographs, are much closer to the retreat rate for neighboring house "E", than the extreme landslide "F". Except for landslide "F", we roughly estimate the area retreat rate for the bluffs visible in the aerial photographs to be on the order of 3 to 5 inches per year.

- Mr. Olsborg performed a bluff study for Pt. Cabrillo light station (four miles to the north-northwest) in 2003. For our analysis of the Pt. Cabrillo bluff retreat rate, we over-laid a 2002 topographic map onto a 1907 topographic map on a light table. Both maps were prepared by field survey at a scale of one inch equals 20 feet. We lined-up the structures, fences, and roads on each map, then drew the 1907 bluff edge onto the 2002 map. We compared the changes in the bluff line between 1907 and 2002 and determined that there was an average bluff retreat of approximately 15 feet during that 95-year interval. This corresponds to an average retreat rate of 1.9 inches per year.
- BACE used aerial photographs dated 1963, 1981, and 2000 for the Pt. Cabrillo study. The photographs were scaled by measuring the distances on the photographs between the fence lines surrounding the light station residences. The actual distances between the fence lines were measured on the 2002 topographic maps, verified in the field by BACE using a 100-foot tape. We then measured the distances from various structures to similar points on the bluffs in each photograph. Our aerial photograph comparisons found erosion rates within the lighthouse vicinity varying from approximately 1-1/2 to 2 inches per year for the 37 years between 1963 and 2000.
- A 1984 erosion study of the U. S. Coast and Geodetic Triangulation Station "Cabrillo" was performed by Forrest Francis, Licensed Land Surveyor. In the Francis report, available U. S. Coast and Geodetic surveys were researched and compared with existing physical features at the site. Based upon Francis's research, it appears that the portion of the bluff where Triangulation Station "Cabrillo" was set, eroded back approximately 11-1/4 feet from 1872 to 1984. This corresponds to an average retreat rate of approximately 1.2 inches per year.
- U.S. Coast and Geodetic Survey Triangulation Station "Cabrillo" was established northwest of the existing lighthouse in 1872. A new Triangular Station, "Cabrillo #2", was established in 1960 when the first station was threatened by bluff erosion. According to the 1984 Francis report, the distances from Cabrillo #2 to the bluff edge in 1960 and 1984 were approximately 8.9 feet and 7.4 feet, respectively. The distance was also approximately 7.4 feet in 2003, as measured by Mr. Kevin Fletcher, Point Cabrillo Lighthouse Association (oral communication, April 9, 2003).
- During BACE's bluff study for a 2001 project at Greenwood Pier Inn in Elk, we studied aerial photographs and reviewed recent and historic plot maps of the project site and adjacent bluff edge. We compared a Plot Map of the town of Greenwood (Elk), dated January 1891, prepared by Sanborn – Perris Map Co. (Sanborn), with the Development Plan of the Greenwood Pier Complex, dated 1991, prepared by Paoli Engineering & Surveying (Paoli). A portion of the Sanborn map is presented on Plate 9. The Sanborn map has a scale of one-inch equals 50 feet; the Paoli map has a scale of one-inch equals 10 feet. The distance along the northerly property line from the Highway One (Main Street) centerline to the bluff edge shown on Sanborn map is 260 feet. The same distance on the Paoli map is 255 feet. BACE recently (3/19/08) field checked this distance using a 100-foot tape and found it to be approximately 253 feet. This bluff retreat over a period of 117 years results in a retreat rate of 0.6-inches per year. If the USGS

average bluff retreat rate were accurate at this location, there would have been a bluff loss of 152 feet during this same period of time.

- In comparing historic, late-19th Century photographs of specific bluff locations with recent photographs of the same bluff locations, the USGS average retreat rate of 1.3 feet per year appears inaccurate. For example, photographs of Albion Cove (approximately 6.5 miles to the south) in 1897 (Field Photograph A, from the future Highway One north bridge abutment vicinity) and 2006 (Field Photograph B, from the northerly bluff) are shown on Plate 10. Additional 2006 photographs (Field Photograph C, from the south bluff, and Field Photograph D, from a kayak at the west [ocean] end of the cove) are shown on Plate 11. Rocks A, B, and C and Points D and E are visible in the 1897 and some of the 2006 photographs (Rock A now has a navigation station on it). These rocks appear essentially unchanged. Comparing these features over a period of 109 years, the bluff retreat (beyond the rocks) that has occurred appears to be on the order of 15 to 25 feet at most; not 142 feet per the USGS retreat rate.
- Very little erosional changes have occurred in Albion Cove, as can be observed by comparing the 1960 USGS Albion Quadrangle and the 1917 Map of Albion Wharf, both on Plate 12, with the 1897 and present day photographs, on Plates 10 and 11.
- It should be noted that Mr. Olsborg has performed engineering geologic services for the several phases of the Albion River Inn expansion from 1984 through 1996.
- During our investigation of a planned museum building at Point Arena Lighthouse in 2006, we studied a survey Map of Point Arena furnished by U. S. Coast Survey dated March 18, 1870. A reduced copy of this map is attached as Plate 13. The lighthouse is shown on this map approximately 60 feet from the northerly peninsula bluff, and about 50 feet from the southerly bluff. Given the USGS retreat rate, the bluff should have retreated 179 feet from 1870 up to the present (the lighthouse should have eroded away by about 1909). Our own study, using the 1870 map, plus our aerial photographs dated 1963, 1981, and 2000 (and oblique aerial photographs dated 2002 and 2005) found the retreat rate for the peninsula bluffs in the planned museum building vicinity, several hundred feet east of the lighthouse, to vary from 4.5 to 7 inches per year.

2000 Geotechnical Report

Based upon our recent site observations and project data review, we conclude that BACE's 2000 Geotechnical Investigation report conclusions and recommendations are still valid. The grading and foundation recommendations provided in our 2000 geotechnical report should be used in design of the project. The only modifications to our 2000 report recommendations are for Uniform Building Code seismic design criteria, concrete slabs-on-grade and enhanced site drainage.

Plan Review

BACE has reviewed the Site Plan, Sheet 1, revision dated March 1, 2007, prepared by Paoli Engineering & Surveying. The bluff setbacks shown on the Site Plan are in accordance with BACE's recommendations.

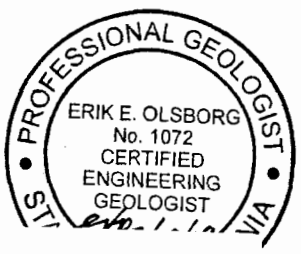
Additional Services

Prior to construction, BACE should review the final grading and foundation plans, and soil related specifications for conformance with our recommendations.

During construction, BACE should be retained to provide periodic observations, together with field and laboratory testing, during site preparation, placement and compaction of fills, if required, and foundation construction. Foundation excavations (pier drilling) should be observed by BACE while the excavation operations are being performed. Our observations and tests would allow us to verify conformance of the work to project guidelines, determine that soil conditions are as anticipated, and to modify our recommendations, if necessary.

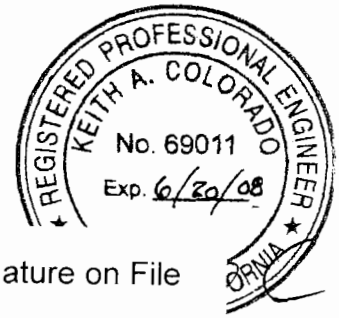
We trust this letter provides the information needed at this time. Please call if you have questions, or if we can be of further service.

Respectfully submitted,



Signature on File

Erik E. Olsborg
Engineering Geologist – 1072



Signature on File

Keith A. Colorado
Civil Engineer – 69011

Distribution

2 copies submitted
4 copies – Paoli Engineering & Surveying

Attachments: Plate 1 – Vicinity Map
Plate 2 – Site Plan
Plate 2A – Cross Sections A and B
Plates 3-5 – Logs of Borings
Plates 6-8 - Aerial Photographs A, B & C
Plate 9 – Map of a Portion of Greenwood
Plates 10 & 11 – Field Photographs A, B, C & D
Plate 12 – Albion 7-1/2 Minute Quadrangle, Topographic Map, 1960, USGS and 1917 Map of Albion Wharf
Plate 13 – 1870 Map of Point Arena
Appendix A

GEOTECHNICAL INVESTIGATION

PROPOSED RICHE RESIDENCE
11400 Lansing Street
Mendocino, California

11234.1

BACE GEOTECHNICAL
(BACE)

A Division of Brunsing Associates, Inc.

JUNE 27, 2000

Brunsing Associates, Inc.

5.0 CONCLUSIONS

Based upon the results of our investigation and review of the available geologic data, we conclude that the site is suitable for the proposed residential development. The main geotechnical considerations affecting the design and construction of the project are settlement, bluff stability, and the potential for strong shaking due to earthquakes.

5.1 Settlement

The proposed building site is on a relatively gentle slope underlain by varying thickness (2 to 3 feet at our borings) of loose to medium dense near-surface soils. A residential structure founded upon weak soils could undergo distress from differential settlement. By using drilled piers, the structure foundations will be extended through the weak upper soils to uniformly bear within stronger underlying materials, thereby mitigating these effects.

5.2 Bluff Stability/Setback Criteria

Comparisons of the bluff today with the aerial photographs from 1981 and 1963 do not show any major changes in the local coastal configuration. Based upon the results of our reconnaissance, we conclude that the bluffs are eroding at varying, non-uniform rates due to periodic rock falls or infrequent, shallow landslides. For the northeast bluff, a relatively conservative retreat rate of eight inches per year should be used for setback determination. Based upon a period of 75 years, considered by the California Coastal Commission to be the economic lifespan of a house, this retreat rate would result in a setback of 50 feet. The southwest bluff has an estimated retreat rate of six inches per year, resulting in a setback of 38 feet. Both of these setbacks are contingent upon an additional safety factor being provided by a drilled pier foundation.

5.3 Seismicity and Faulting

The site will be subject to strong ground shaking during future, nearby, large magnitude earthquakes. Generally, wood-frame structures founded in firm materials, and designed in accordance with current building codes are well suited to resist the effects of ground shaking. The intensity of ground shaking at the site will depend on the distance to the causative earthquake epicenter, the magnitude of the shock, and the response characteristics of the underlying earth materials. With firm bedrock within a few feet of the ground surface at the planned building area, the site should receive short period, jarring motions during an earthquake with no significant ground wave amplifications, that otherwise could be produced by a thick, weak soil deposit.

Since the active San Andreas Fault is about five miles away from the site, and no other active faults were observed by us or are shown on published maps in the site vicinity, it is our opinion that the potential for surface fault rupture at his site is very low.

5.4 Site Hydrology

The planned structure will be intercepting the natural sheet flow drainage across the site. Concentrated runoff water (including water from roof gutter downspouts) should be dispersed onto the ground surface on the inland sides of the residence. No drain waters should be outletted on the northeast bluff side of the residence. If possible, drain waters should be conducted to the nearby street drainage system.

5.5 Construction Impact

In general, the proposed development, constructed in accordance with our recommendations, should have little effect upon bluff stability. The surface (including roofs) drainage facilities discussed above, emptying on the inland sides of the house, should decrease the amount of water that is causing the localized sloughing on the upper bluff slope.

6.0 RECOMMENDATIONS

6.1 Site Grading

Grading should be kept to the minimum required to provide access to the building and a minimum two percent surface gradient away from perimeter building foundations. Any pad grading should be observed by BACE while the equipment is working on site.

All areas to be graded should be cleared to remove vegetation and topsoil. After stripping, soft/weak near-surface soils should be completely removed. In garage slab-on-grade areas the expected depth of removal to firm underlying subsoils is expected to be about 1-1/2 feet below the surface organic layer. Soils exposed by this operation should be scarified, moisture conditioned to near optimum moisture content, and compacted to at least 90 percent relative compaction per the ASTM D1557 test procedures.

All fill material should be free of organic matter, rocks greater than four inches in dimension, and of low expansion potential (i.e., Expansion Index less than 40). Except for the topsoils, on-site soils in a "cleaned" condition (i.e., less organics and oversized rock) should be suitable for re-use as engineered fill within

planned building and driveway areas. The topsoil could be used within landscape areas only.

Fill, on-site or imported, should be placed in thin lifts, moisture conditioned to near optimum moisture content, and compacted to at least 90 percent relative compaction based on the ASTM D1557-78 test procedure.

6.2 Foundation Support

The residence can be supported on a foundation system of drilled, cast-in-place, concrete piers interconnected with grade beams. The piers should be designed using a downward frictional capacity (dead plus long-term live load) of 650 pounds per square foot (psf) of pier shaft surface area. The upper three feet of soil (from lowest adjacent soil subgrade) should be neglected for support. Allowable momentary uplift capacity should be limited to two thirds of the above capacity; for total downward load, including wind or seismic forces, increase the above capacity by one third.

The piers should be at least 12 inches in diameter, reinforced, and should penetrate at least five feet into the weathered bedrock below the terrace soils. Pier holes will likely vary from about 12 to 14 feet in depth. Pier spacing should be no closer than three pier diameters, center to center.

If required, resistance to lateral loads can be obtained from passive earth pressure on pier faces. This pressure should be limited to 800 psf (rectangular distribution). Passive pressure can be assumed to act on a width equal to two times the pier diameter, and should be neglected in the upper three feet.

Each pier should be drilled straight and plumb. Caving occurred in our test borings. Therefore, caving and/or sloughing below the water table may be encountered during drilling, and the contractor should be prepared to case the holes. In addition, dewatering will be required if ground water is encountered, to allow concrete placement "in the dry". Loose material and water should be removed from pier holes prior to placing concrete. Pier depths and cleanout should be checked by BACE in the field before reinforcing steel and concrete are placed.

6.3 Additional Services

Prior to construction BACE should review the final grading and building plans, and soil related specifications for conformance with our recommendations.

During construction, BACE should be retained to proved periodic observations, together with field and laboratory testing, during site preparation, placement

EXHIBIT NO. 5
APPLICATION NO.
1-85-014-A1
RICHE
ORIGINAL STAFF REPORT
CDP 79-CC-208 (1 of 5)

STATE OF CALIFORNIA — ...OWN JR., Gover

CALIFORNIA COASTAL COMMISSION

NORTH COAST REGION
1656 UNION STREET, ROOM 150
P.O. BOX 4946
EUREKA, CALIFORNIA 95501
(707) 443-1623

Staff Report
Public Hearing Agenda

Application No: 79-CC-208
Date Filed: 10-17-79
A.P. No.: 119-10-12 119-30-1
Findings:
Summary Date: January 7, 1980

I. APPLICATION SUMMARY

Applicant: Elizabeth Bernhard
103 Highland Avenue
San Rafael, CA 94901

Agent:

Development Description: Construction of a 2 story single family residence, well and septic system on a 4.5 acre oceanfront parcel.

Location: Located west of Lansing Street southwest of the intersections of Lansing Street and Highway 1.

Approvals Received: The applicant has all necessary local approvals.

STAFF RECOMMENDATION

The staff recommends that the commission adopt the following resolution:

I. Approval with Conditions

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that, as conditioned, the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, is located between the sea and the nearest public road and will be in conformity with the public access and public recreation policies of Chapter 3, will not prejudice the ability of the local government having jurisdiction over the area to prepare a local coastal program conforming to the provisions of Chapter 3 of the Coastal Act, and as conditioned, will not have any significant adverse impact on the environment within the meaning of the California Environmental Quality Act.

II. Conditions:

1. Prior to the issuance of a permit, the applicant shall submit revised site plans to the Executive Director for his review and approval, showing the location of the residence and driveway, existing vegetation, vegetation to be removed, and any proposed landscaping.

2. Prior to commencement of construction of the foundation, the applicant shall notify the Executive Director to enable a staff site review of the foundation placement, and construction shall not continue until the foundation placement inspection has been conducted and found to conform with the revised site plan.

3. The residence shall be sited a minimum of 40 feet from the bluff top, and the leachfield shall be a minimum of 100 feet from the mean high tide line.

4. Utilities shall be underground.

5. The exterior finish of the structure shall blend with and subordinate to the surrounding area.

6. Prior to the issuance of a coastal permit, the applicant shall submit to the Executive Director a deed restriction for recording free of prior liens except for tax liens, that binds the applicant and any successors in interest. The form and content of the deed restriction shall be subject to the review and approval of the Executive Director. The deed restriction shall provide (a) that the applicants understand that the site is subject to extraordinary hazard from waves during storms, erosion, and from landslides, and the applicants assume the liability from those hazards; (b) the applicants unconditionally waive any claim of liability on the part of the Commission or any other public agency for any damage from such hazards; and (c) the applicants understand that construction in the face of these known hazards may make them ineligible for public disaster funds or loans for repair, replacement, or rehabilitation of the property in the event of storms, erosion or landslides.

7. Prior to issuance of the permit the Executive Director shall certify in writing that the following condition has been satisfied. The applicant shall execute and record a document, in a form and content approved by the Executive Director of the Commission, irrevocably offering to dedicate to an agency approved by the Executive Director, an easement for public pedestrian access to the shoreline. Such easement shall be 150 feet long located south from the northern boundary of the property line and extending to the mean high tide line. (See exhibit) Such easement shall be recorded free of prior liens except for tax liens and free of prior encumbrances which the Executive Director determines may effect the interest being conveyed.

   The offer shall run with the land in favor of the People of the State of California, binding successors and assigns of the applicant or landowner. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of recording.

8. Faucets and shower heads shall be fitted with water saving devices that restrict flow to a maximum of three gallons of water per minute.

9. No further development on this site other than that granted under the terms and conditions of this permit shall be performed without first obtaining approval from this commission.

Findings and Declarations:

The Commission finds and declares as follows:

1. Development and Site Description: The applicant proposes to construct a two story, 24 ft. high, 2000 sq. ft. residence with attached garage, well

on the west side of Lansing Street, southwest of its intersection with Highway One, Mendocino.

The parcel is a small point of land where the residence would be located with a narrow bluff shelf extending north approximately 400 feet to Jack Peters Creek, and south approximately 200 feet to the southern property line. No structures are proposed on these narrow shelves, and the residence is to be sited at least 40 feet from the bluff top. The bluff face of the parcel is approximately 50-70 feet in height. The parcel contains some conifers, brush, poision-oak, and berries.

2. Public Access: Section 30210 of the Coastal Act provides that:

> "In carrying out the requirement of Section 2 of Article XV of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse."

Section 30212 of the Coastal Act further provides:

> "Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway."

The parcel contains over 800 linear feet of oceanfront where inadequate access may exist. In most instances, the commission would require a 25 foot wide lateral easement along the ocean front, as well as a possible vertical easement to the shoreline. However, an evaluation of this site and its potential for possible access reveals that the standard approach to access should be altered in this instance.

The narrow northern shelf mentioned earlier is not suitable for structural development because of its limited land area. It does afford some potential for public pedestrian access for a scenic overlook as well as potential access to the ocean at Jack Peters Creek. Because of the wooded nature of the point where the residence would be sited, there is little potential for scenic vistas. (See Exhibit C).

The commission finds that the best location for possible access based upon the nature of the site would be the northern shelf rather than the point in the vicinity of the residence. This location would also provide the maximum amount of privacy for the residence while recognizing public access potential.

The Commission finds that the area for access dedication provides the best opportunity for potential access, and provides the maximum amount of access to and along the shoreline consistent with Sections 30210 and 30212 of the Coastal Act.

3. Marine Environment: Section 30231 of the Coastal Act provides:

> "The biological productivity and the quality of coastal waters. . . shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges. . ."

The geologic consultant and sanitarian performing soils profiles found sufficient soil depth and capacity to accommodate a conventional septic system since the project is located outside the Mendocino City Community Services District. Setbacks from cutbanks, slopes, and receiving waters conform to Water Quality Control and Health Department requirements to maintain biological productivity and water quality. The Commission finds that, as conditioned, the project is consistent with the provisions of Section 30231 of the Coastal Act.

4. Geologic Hazards: Section 30253 of the Coastal Act provides:

> "New development shall:
>
> (1) Minimize risks to life and property in areas of high geologic, flood and fire hazard.
>
> (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural land forms along the bluffs and cliffs."

The applicant has submitted a geologic report regarding the proposed development of the ocean front parcel. The findings of that report support the applicant's contention that the parcel may be reasonably expected to support a residence for the normal lifespan of a single family residence.

The Commission finds that the conditions of the permit regarding structural setbacks and leachfield setbacks adequately minimize risks to life and property consistent with Section 30253 (1,2) given the rates of cliff retreat anticipated by the consulting geologist.

5. Development: Section 30251 of the Coastal Act provides:

> "The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, minimize the alteration of natural landforms, to be visually compatible with the character of surrounding areas."

Section 30253 (5) provides that new development shall:

> "Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor-destination points for recreational uses."

The site is located on the west side of Lansing Street on the northern entrance to the town of Mendocino. Given its location west of the first public road and that it would be the first visible structure entering Mendocino from the north, the development should be sited and designed to be compatible with the area and consistent with Sections 30251 and 30253 (5) of the Coastal Act.

The siting of the structure would be within the wooded portion of the parcel where views to the ocean are partially blocked by the trees. Through careful siting and minimal tree removal, the two-story stucture can be placed on the parcel without adversely impacting public views.

The commission finds that, as conditioned, the development is consistent with Sections 30251 and 30253 (5) of the Coastal Act.

6. Local Coastal Program: Residential development of the parcel should not prejudice the local coastal planning process. The site is not large enough nor is it connected to public services which would allow more intense development. The primary alternative would be access or recreational uses, but these alternatives have been provided for in the conditions of approval. The commission finds, therefore, that reasonable planning options have been preserved, and that the development would not prejudice development of a local coastal program.

7. California Environmental Quality Act: The commission finds that the development's potential environmental impacts have been mitigated or minimized by the conditions of approval, and the development will not have a significant adverse environmental impact within the meaning of C.E.Q.A.

Gary Berrigan
Permit Analyst

CONCUR: RICHARD G. RAYBURN
Executive Director