

CALIFORNIA COASTAL COMMISSION

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DATE: August 27, 2009

TO: Coastal Commissioners and Interested Parties

FROM: Peter Douglas, Executive Director
Robert Merrill, North Coast District Manager

SUBJECT: **Appeal No. A-1-MEN-09-034 (Marr & Malin, CDP-57-2008)**, 2800 North Highway One, ¼ mile south of Albion, Mendocino County. Filed July 27, 2009.

Recommendation: Staff recommends that the Commission determine that a **substantial issue exists** with respect to the grounds on which Appeal No. A-1-MEN-09-034 has been filed and that the Commission hold a de novo hearing. Staff recommends a NO vote on the following motion & resolution:

Motion & Resolution. I move that the Commission determine and resolve that: Appeal No. A-1-MEN-09-034 raises no substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

Following the staff recommendation by voting no will result in the Commission conducting a de novo review of the application, and adoption of the following findings. Passage of this motion via a yes vote, thereby rejecting the staff recommendation, will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners.

On June 25, 2009, the Mendocino County Coastal Permit Administrator approved the development of a single family residence along the east side of Highway One just north of Salmon Creek at 2800 North Highway One, ¼ mile south of Albion. The approved development includes: a new 2,524-square-foot, 21-foot-high single-story house with a

634-square-foot attached garage, 329 square feet of attached covered porches; a detached 2,138-square-foot, 24-foot-high accessory structure containing a 1,516-square-foot garage/workshop, a 501-square-foot guest cottage to be occupied as a temporary residence before and during construction of the proposed residence, and a 121-square-foot covered porch; a 900-foot-long driveway with an upgraded encroachment onto Highway One; a temporary construction trailer; a septic disposal system water well; and a water storage tank (see Exhibits 1-5).

Pursuant to Coastal Act Section 30603, this approval is appealable to the Commission because the approved development is located within 100 feet of a wetland and because the approved development is located within a designated highly scenic area, a type of sensitive coastal resource area (See Appendix A).

Appellants Albion Residents Association and the Sierra Club claim the approved project is inconsistent with the LCP because: (1) a 100-foot buffer has not been established between the driveway portion of the development and environmentally sensitive wetland habitat as required by LUP Policy 3.1-7; (2) the approved development is not sited and designed to protect views to and along the ocean and scenic coastal areas from public vantage points along Highway One, Salmon Creek beach, a nearby stream, and the ocean inconsistent with LUP Policy 3.5-1; (3) the approved development is in a designated highly scenic area and is not subordinate to the character of its setting as required by LUP Policies 3.5-1 and 3.5-3 because the development is over 5,600-square-feet in size and too tall and visible from Highway One, the development has not been tucked into its setting, the approved development is not within the scope and character of surrounding development, the 900-foot-long driveway will run parallel to Highway One through an exposed grassland area that will be highly visible from the highway, and planting of trees to screen the development as required by the County permit will not be effective as the trees will likely succumb to winds and a tree virus; (4) the approved development will project above the ridgeline within a highly scenic area as viewed from certain locations inconsistent with LUP Policies 3.5-4; (5) electrical utility lines were not required to be placed underground within the highly scenic area inconsistent with LUP Policy 3.5-8; and (6) the development was approved without consideration that Cal Trans is proposing to widen the road and replace the nearby Highway One Salmon Creek and Albion River Bridges (See Exhibit 7).

Coastal Act Section 30625(b) requires the Commission to hear an appeal unless it determines that no substantial issue exists with respect to the grounds on which the appeal has been filed.¹ Commission staff has analyzed the county's Final Local Action Notice for the development (Exhibit 8), appellant's claims (Exhibit 7), and the relevant

¹ The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. In previous decisions on appeals, the Commission has generally been guided by the following factors in making substantial issue determinations: the degree of factual and legal support for the local government's decision; the extent and scope of the development as approved or denied by the local government; the significance of the coastal resources affected by the decision; the precedential value of the local government's decision for future interpretations of its LCP; and, whether the appeal raises only local issues, or those of regional or statewide significance.

requirements of the LCP (Attachment A). Staff recommends that the Commission find that the appeal raises a substantial issue of conformance of the approved project with respect to both (1) the ESHA buffer policies of the certified LCP and (2) the visual resource protection policies of the certified LCP for the following reasons:

1. Substantial Issue With Respect to ESHA Buffer Policies of the Certified LCP.

The biological studies performed for the project delineate approximately 1.07 acres of California Coastal Act wetland on the project site. The wetlands are located along the northeast side of Highway One at the base of the roadway fill prism and consist of a seasonally wet meadow. The approved house and accessory structure are located well to the south and east of this wetland. However, the approved project includes construction of a driveway that runs roughly parallel to Highway One for approximately 600 feet (See Exhibit 3). Portions of the approved driveway would be constructed immediately adjacent to the wetland (varying from 0 to a maximum of approximately 15 feet) and the approved connection from the driveway to Highway One would be constructed partially within the seasonally wet meadow (See Exhibit 6).

The appellants claim the approved project is inconsistent with the LCP because a 100-foot buffer has not been established between the driveway portion of the development and environmentally sensitive wetland habitat as required by the LCP. LUP Policy 3.1-7 and Coastal Zoning Code Section 20.496.020(A) state that an ESHA buffer may be reduced from 100 feet to a minimum of 50 feet if an analysis is provided that demonstrates that based on certain criteria in CZC Section 20.496.020(A), a reduced buffer would be adequate to protect the resource. The portion of the approved driveway to be constructed near the wetland would be constructed partially within the wetland and the portions not constructed directly within the wetland would have a buffer ranging from 0 to 15 feet. Although the approved project includes mitigation measures to reduce the impact of the reduced buffer, the County's findings do not address how the approved development conforms with the requirements of LUP Policy 3.1-7 and CZC Section 20.496.025(A) that at least a 50-foot buffer must be provided between approved development and ESHA. Furthermore, the Commission notes that the County did not adopt findings that establish how filling the wetland for the driveway connection to Highway One is consistent with the allowable uses for fill in a wetland specified by LUP Policy 3.1-4 and Coastal Zoning Code (CZC) Section 20.496.025. These policies limit the allowable uses for fill in wetlands to the same kinds of uses for which filling of wetlands is permitted under Section 30233 of the Coastal Act. None of these policies allow fill for residential driveways.

The County has not adopted findings that provide factual and legal support for determining that reducing the minimum buffer width conforms with the pertinent LCP policies. The approval of development partially within and adjacent to wetland ESHA without a minimum 50-foot buffer establishes an adverse precedent for allowing similar development without minimum buffers where there is a substantial issue of conformance with the LCP ESHA policies. The protection of ESHA in the coastal zone is an issue of statewide concern addressed by Section 30240 of the Coastal Act. Therefore, the

Commission finds that the appeal raises a substantial issue regarding consistency of the approved development with the ESHA buffer policies of the certified LCP.

2. Substantial Issue With Respect to Visual Resource Protection Policies of the Certified LCP.

The appellants allege that the approved development is inconsistent with LCP provisions pertaining to visual resources. The project site is located within the designated “highly scenic area” as described in LUP Policy 3.5-3 which includes mapped areas east of Highway One. The area is mapped as highly scenic on LUP Map No. 18. The primary visual issues raised by the appeal center around whether the development would be compatible with and subordinate to the character of the surrounding area and whether the project is consistent with LCP policies regarding development on ridges.

The LCP visual resource protection policies cited above set forth various standards that are applicable to the project. LUP Policy 3.5-1 and Zoning Code Sections 20.504.010 and 20.504.015 require that new development in highly scenic areas be visually compatible with the character of surrounding areas and subordinate to the character of its setting.

The project site is directly adjacent to the inland side of Highway One just north of the highway’s Salmon Creek Bridge. The County staff report states:

Story poles for both of the proposed buildings have been erected on site...the building site is a relatively gently sloping open grassland which provides stunning views of the Little-Big Salmon Rivers mouth, bridge, and ocean beyond. The building site is highly visible from Highway 1 south of the site. When a traveler is south of the Salmon River Bridge heading north, the proposed buildings will be highly visible. When a traveler is on the bridge traveling north, the buildings will silhouette the skyline. ...

The County conditioned the project to help reduce the visual impacts of the development by requiring the use of dark natural exterior materials and colors, limiting exterior lighting, and requiring landscaping to partially buffer the view of the development. The County’s findings indicate the County considered reducing the 21-foot and 24-foot heights of the two buildings but ultimately determined that shorter buildings would not be less visible from the highway or more protective of public views. The County’s findings also note that given the relatively small size of the parcel (4.17 acres) there are limited options for siting the development to further minimize visual impacts. However, as the County notes, the development will be highly visible against a sparsely developed landscape and the findings do not explain how the development even with the required mitigations will overall be subordinate to the character of its setting as required by the LCP policies. In addition, as noted by the appellants, the proposed development is over 5,600 square feet in size. While there are certainly examples of residences that are as large and larger along the Mendocino Coast, the majority of existing residences in the area are smaller. In addition, the development is divided into two separate buildings, with the residence and garage in one 2,524-square-foot building, and an accessory guest

cottage and workshop occupying a second 2,138-square-foot structure that is nearly as large as the main building. The County's findings do not address the alternative of reducing the scale of the highly visible development to further reduce visual impacts and make it subordinate to the character of its setting either by eliminating the large accessory structure or otherwise consolidating the development into a single structure of smaller size. As these alternatives have not been evaluated, a substantial issue is raised as to whether the development minimizes the visual impacts and is truly subordinate to the character of its setting.

LUP Policy 3.5-4 and Zoning Code Section 20.504.015(C)(8) require that the visual impacts of development on ridges be minimized by prohibiting development that projects above the ridgeline unless no alternative site is available below the ridgeline, in which case the visual impacts shall be reduced by utilizing existing vegetation, optimizing the structural orientation, landscaping, and protecting existing tree masses which define the ridgeline silhouette. The County staff report acknowledges that the development will project above the ridgeline from certain vantage points:

When a traveler is on the bridge traveling north the buildings will silhouette the skyline. The building site is more hidden from the north of the site as one travels south along the highway due to topography and natural vegetation.

The staff report indicates that County staff believes that shorter buildings would still silhouette the skyline when viewed from the center of the Salmon Creek Bridge and that potential building sites are rather confined due to lot line setbacks, ESHA buffer area, septic and well locations and the bluff setback. However, in stating this opinion, the County's findings do not evaluate the alternative site locations that actually may be available. For example, the Exhibit C of the County staff report, "ESHA Site Plan," shows the location of a large area of Grand Fir Forest along the eastern boundary of the property. Photographs of the site supplied by the applicant (See page 4 of Exhibit 9) that are labeled as taken from Highway One looking north across the Salmon Creek Bridge demonstrate that the trees contained in the Grand Fir Forest are much taller than the story poles outlining the buildings and that the trees themselves extend well above the ridgeline from this vantage point. The County's findings do not address whether resiting and or consolidating the structures in a slightly different location to align the building(s) and forest in a manner that would position the tall trees as a backdrop to the building(s) when viewed from northbound travelers crossing the Highway one bridge would be possible. If such an alternative is feasible, even if the buildings extend above the ground level of the ridge, the buildings might not extend above the height of the trees, thereby reducing the visual impacts by utilizing existing vegetation and optimizing structure orientation consistent with LUP Policy 3.5-4 and CZC Section 20.504.015(C)(8). Absent an analysis of this or other alternatives, a substantial issue is raised as to whether the approved development was sited or designed to prevent the development from projecting above the ridgeline or whether the visual impacts associated with the development extending above the ridgeline could have been further reduced and minimized consistent with LUP Policy 3.5-4 and CZC Section 20.504.015(C)(8).

Many appeals from Mendocino County raise issues of visual resource protection, and in acting on these appeals *de novo*, the Commission has denied some projects because of inconsistencies with visual resource protection policies. The protection of visual resources is required under Section 30251 of the Coastal Act, and in certifying LUP Policy 3.5-1, the Commission concurred with the introductory language of that policy that the scenic and visual quality of the Mendocino County coastal area be considered and protected as a resource of public importance. The Commission often conditions permits it approves to require the applicant to relocate, redesign, or screen proposed development specifically to protect views of the ocean and scenic coastal areas. In addition, the approved development would be visible from State Highway One, the sole continuous highway through the Mendocino County coastal zone. Highway One brings visitors from throughout the region, state, and world to the coast to enjoy its beauty. Thus, the appeal raises issues of regional and statewide significance. Furthermore, as the County's findings did not fully address alternative siting locations or designs that would minimize visual impacts, there is not a high degree of factual support for the County's decision that the approved project is consistent with the visual resource policies of the certified LCP.

Therefore, the Commission finds that the project as approved by the County raises a substantial issue with respect to conformance of the approved project with LCP policies regarding visual resource protection, including, but not limited to, LUP Policies 3.5-1, 3.5-3, and 3.5-4 and CZC Sections 20.504.010 and 20.504.015, as the approved development raises a substantial issue as to whether the development would be (1) subordinate to the character of its setting, and (2) whether feasible alternatives exist that would minimize the visual impact of ridge top development.

Information Needed for De Novo Review of Application

Section 30621 of the Coastal Act instructs the Commission to provide for a *de novo* hearing on all appeals where it has determined that a substantial issue exists with respect to the grounds on which an appeal has been filed. If the Commission finds substantial issue as recommended above, staff also recommends that the Commission continue the *de novo* hearing to a subsequent date. The *de novo* portion of the appeal must be continued because the Commission does not have sufficient information to determine what, if any, development can be approved, consistent with the certified LCP.

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

1. Evidence of Lot Legality

Although the County-approved development is on property recognized by a County-issued Certificate of Compliance as a separate legal lot. The approved project raises

questions as to whether the subject property is actually a separate legal parcel or not, which affects whether a residence can be approved on the site, the impacts of the development on visual and other coastal resources, and the degree of consistency of the development with the certified LCP policies. Therefore, an analysis of the legality of the lot as a separate parcel and related information is needed to help determine the legal development potential on the subject property. This analysis must include, but is not limited to, the following:

- A. A copy of the County issued Certificate of Compliance and an explanation of the basis upon which the certificate was issued by the County;
- B. An analysis of whether the real property in question complies with the provisions of the Subdivision Map Act and County Ordinances enacted pursuant thereto; and
- C. The historic chain of title for the subject property as well as all property in common contiguous ownership, *i.e.* any immediately adjacent property also owned by the applicant.

2. Information Needed to Evaluate Project Consistency with Coastal Act Section 30010

If the project cannot be found consistent with the ESHA and visual resource policies of the certified Mendocino County LCP, the Commission will need to evaluate whether an alternative proposal could be approved, and if not, whether denial of the project would result in an unconstitutional taking of private property for public use. In order to make that evaluation, the Commission needs additional information from the applicants concerning the applicants' reasonable investment-backed expectations to make such determinations prior to holding a *de novo* hearing on the project. Specifically, the landowner of the property that is the subject of A-1-MEN-09-034 must provide the following information for the property that is subject to A-1-MEN-09-034 as well as all property in common contiguous ownership, *i.e.* any immediately adjacent property also owned by the applicant:

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

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

3. Wetland Mitigation Plan and Clarification of Wetland Fill

If wetland fill for the driveway and connection to Highway One is unavoidable and if the Commission determines that to deny the project would result in an unconstitutional taking of private property inconsistent with Section 30010 of the Coastal Act, some fill of wetlands may need to be approved even if such fill is not an allowable purpose for placing fill in wetlands pursuant to the wetland fill policies of the Coastal Act and the certified LCP. In that event, the Commission would still need to find that the development is consistent with all other policies of the certified LCP, including, but not limited to, the provisions of LUP Policy 3.1-4 and CZC Section 20.496.025 that require that any fill approved shall include mitigation measures required to minimize adverse environmental effects, in accordance with Sections 30233 and 30607, and other provisions of the Coastal Act. One of the adverse environmental effects of the filling of

the wetland for a driveway would be the loss of wetland area. A wetland mitigation plan needs to be provided that compensates for any direct loss of wetlands and wetland values and functions associated with filling the seasonally wet meadow or other wetlands for the driveway and its connection to Highway One. The mitigation plan needs to provide for the creation of new or expanded wetlands at a ratio of wetlands created or expanded to wetlands filled at a ratio large enough to compensate for temporal loss of wetland values and functions between the time the wetlands are filled and the full establishment of wetland values and functions in the wetland area to be created or expanded. The wetland mitigation plan must include detailed descriptions and diagrams of the wetland mitigation site and proposal, success criteria, and monitoring proposals.

Clarification of the amount of wetland fill associated with the driveway connection to Highway One is also needed. The County staff report indicates that the County approved driveway connection will pass through a seasonally wet meadow in the location of an existing ranch gate encroachment onto Highway One. Based on the wetland delineation information contained in the local record, the existing ranch encroachment onto the highway does not appear to be paved and portions of the route taken by existing ranch vehicles appear to be part of the seasonally wet meadow. Clarification is needed as to exactly how much wetland fill (both in cubic yards of volume and square feet of coverage) is proposed for the driveway and its connection to Highway One and whether it would be feasible to reduce the amount of such fill by reducing the width of the proposed driveway and connection.

4. Alternatives Analysis for Eliminating or Minimizing Impacts of Projection of Development Above Ridgeline Silhouette.

As discussed above, LUP Policy 3.5-4 and Zoning Code Section 20.504.015(C)(8) require that the visual impacts of development on ridges be minimized by prohibiting development that projects above the ridgeline unless no alternative site is available below the ridgeline, in which case the visual impacts shall be reduced by utilizing existing vegetation, optimizing the structural orientation, landscaping, and protecting existing tree masses which define the ridgeline silhouette. The County staff report acknowledges that the development will project above the ridgeline from certain vantage points

The County's findings do not address whether resiting and or consolidating the structures in a slightly different location to align the building(s) and forest in a manner that would position the tall trees as a backdrop to the building(s) when viewed from northbound travelers crossing the Highway one bridge would be possible. If such an alternative is feasible, even if the buildings extend above the ground level of the ridge, the buildings might not extend above the height of the trees, causing no further break in the ridgeline silhouette thereby reducing the visual impacts by utilizing existing vegetation and optimizing structure orientation consistent with LUP Policy 3.5-4 and CZC Section 20.504.015(C)(8). A visual analysis needs to be provided that examines the feasibility and visual effects on ridgeline silhouettes of the alternatives of (a) using different sites on the property (including sites where the Grand fir forest would form a backdrop to the

development in front of the ridge as seen from northbound Highway One from the Salmon Creek Bridge), (b) reducing the height of the structures to 14-18 feet, (c) consolidating the buildings and reducing their overall mass, and (d) combinations of the above alternatives.

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

APPENDICES

APPENDIX A: Commission's Appeal Jurisdiction Over Project
APPENDIX B: LCP Excerpts

EXHIBITS

1. Regional Location Map
2. Vicinity Map
3. Site Plan
4. Residence Plans
5. Accessory Building Plans
6. Wetlands and ESHA
7. Appeal
8. Notice of Final Local Action
9. Applicant's Correspondence

APPENDIX A

COMMISSION'S APPEAL JURISDICTION OVER PROJECT

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits (Coastal Act Section 30603).

Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea, or within three hundred feet of the inland extent of any beach, or of the mean high tide line of the sea where there is no beach, or within one hundred feet of any wetland or stream, or within three hundred feet of the top of the seaward face of any coastal bluff, or those located in a sensitive coastal resource area, such as designated "special communities."

Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county. The grounds for an appeal are limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program and, if the development is located between the first public road and the sea, the public access policies set forth in the Coastal Act.

The subject development is appealable to the Commission pursuant to Section 30603 of the Coastal Act because the approved development is located within 100 feet of a wetland and within a sensitive coastal resource area pursuant to Section 30603(a)(3) of the Coastal Act.

1. Within 100 feet of a Wetland

The biological studies performed for the project delineated approximately 1.07 acres of California Coastal Act wetland on the project site. The wetlands are located along the northeast side of Highway One at the base of the roadway fill prism and consist of a seasonally wet meadow. The approved house and accessory structure are located well to the south and east of this wetland. However, the approved project includes construction of a driveway that runs roughly parallel to Highway One for approximately 600 feet. Portions of the approved driveway would be constructed immediately adjacent to the wetland (varying from 0 to a maximum of 15 feet) and the approved connection from the driveway to Highway One would be constructed partially within the seasonally wet meadow. Therefore, as portions of the approved development are located within 100 feet of a wetland the subject development is appealable to the Commission pursuant to Section 30603 of the Coastal Act.

2. Within a Sensitive Coastal Resource Area

Section 30116 of the Coastal Act defines Sensitive Coastal Resource Areas as follows:

"Sensitive coastal resource areas" means those identifiable and geographically bounded land and water areas within the coastal zone of vital interest and sensitivity. "Sensitive coastal resource areas" include the following:

- (a) Special marine and land habitat areas, wetlands, lagoons, and estuaries as mapped and designated in Part 4 of the coastal plan.*
- (b) Areas possessing significant recreational value.*
- (c) Highly scenic areas. (emphasis added)*
- (d) Archaeological sites referenced in the California Coastline and Recreation Plan or as designated by the State Historic Preservation Officer.*
- (e) Special communities or neighborhoods which are significant visitor destination areas.*
- (f) Areas that provide existing coastal housing or recreational opportunities for low- and moderate-income persons.*
- (g) Areas where divisions of land could substantially impair or restrict coastal access.*

Section 30502 of the Coastal Act indicates that sensitive coastal resource areas are areas within the coastal zone where the protection of coastal resources and public access requires, in addition to the review and approval of zoning ordinances, the review and approval by the Commission of other implementing actions to protect coastal resources. Sensitive coastal resource areas (SCRAs) can be designated either by the Commission pursuant to Section 30502 of the Coastal Act, or by local government by including such a designation in its Local Coastal Program (LCP).

Section 30502 directs the Commission to designate SCRAs not later than September 1, 1977, pursuant to a report which must contain the following information:

- (1) A description of the coastal resources to be protected and the reasons why the area has been designated as a sensitive coastal resource area;*
- (2) A specific determination that the designated area is of regional or statewide significance;*
- (3) A specific list of significant adverse impacts that could result from development where zoning regulations alone may not adequately protect coastal resources or access;*
- (4) A map of the area indicating its size and location.*

The Commission did not ultimately designate SCRAs or make recommendations to the Legislature, as contemplated by Section 30502 and 30502.5. Because it did not designate SCRAs, the Commission does not have the authority to require local governments to adopt such additional implementing actions. Nothing in Sections 30502 or 30502.5, however, overrides other provisions in the Coastal Act that assign primary responsibility to local governments for determining the contents of LCPs and that authorize local

governments to take actions that are more protective of coastal resources than required by the Coastal Act. Such Coastal Act provisions support the position that the Commission does not have the exclusive authority to designate SCRA's. In 1977, the Attorney General's Office advised the Commission that if the Commission decided not to designate SCRA's, local government approvals of development located in SCRA's delineated in LCPs would nonetheless be appealable to the Commission.

The ability of local governments to designate SCRA's in LCPs is further supported by the legislative history of changes to Section 30603. In 1982, after the 1978 deadline for the Commission to designate SCRA's, the Legislature amended the provisions of Section 30603 that relate to appeals of development located in SCRA's. (Cal. Stats. 1982, c. 43, sec. 19 (AB 321 - Hannigan).) The Legislature's 1982 revisions to the SCRA appeal process demonstrate that the Commission's decision not to designate SCRA's did not have the effect of preventing local governments from designating SCRA's through the LCP process. If the Commission's decision not to designate SCRA's rendered the Coastal Act provisions that relate to SCRA's moot, the Legislature's action in 1982 would have been a futile and meaningless exercise. Instead, by deliberately refining the SCRA appeal process, the Legislature confirmed that local governments continue to have the authority to designate SCRA's.

Although a city or county is not required to designate SCRA's in their LCP, at least four local governments have chosen to do so. The Commission has certified LCP's that contain SCRA designations from the City of Grover Beach (1982), San Luis Obispo County (1987), the City of Dana Point (1989) and the segment of Mendocino County's LCP that covers areas outside of the Town of Mendocino (1992).

Designation of SCRA's in this manner is consistent with the reservation of local authority, under Section 30005, to enact certain regulations more protective of coastal resources than what is required by the Act. As noted above, the Coastal Act does not require local governments to designate SCRA's, but local governments are allowed to designate such areas.

The appeal of Mendocino County Coastal Development Permit (CDP) No. 57-2008 was accepted by the Commission in part, on the basis that the project site is located in a sensitive coastal resource area designated by Mendocino County and certified by the Commission when the County's LCP was certified in 1992.

The applicable designation of sensitive coastal resource areas was accomplished in the LCP by defining sensitive coastal resource areas within the LCP to include "highly scenic areas," and by mapping specific geographic areas on the certified Land Use Maps as "highly scenic." Chapter 5 of the Mendocino County General Plan Coastal Element (the certified Land Use Plan) and Division II of Title 20, Section 20.308.105(6) of the Mendocino County Coastal Zoning Code (CZC), both define "Sensitive Coastal Resource Areas" to mean "those identifiable and geographically bounded land and water areas within the coastal zone of vital interest and sensitivity." Subparts (c) of these sections include "highly scenic areas." This definition closely parallels the definition of SCRA

contained in Section 30116 of the Coastal Act. Mendocino LUP Policy 3.5 defines highly scenic areas to include, in applicable part, “those [areas] identified on the Land Use Maps as they are adopted.” Adopted Land Use Map No. 18 designates the area inclusive of the site that is the subject of Mendocino County CDP No. 57-2008 as highly scenic. Therefore, it is clear that by defining sensitive coastal resource areas to include highly scenic areas, and by then mapping designated highly scenic areas on the adopted Land Use Maps, the County intended that highly scenic areas be considered sensitive coastal resource areas.

Section 30603 of the Coastal Act states that “after certification of its local coastal program, an action taken by a local government on a coastal development permit may be appealed to the Commission...” Included in the list of appealable developments are developments approved within sensitive coastal resource areas. Additionally, Division II of Title 20, Section 20.544.020(B)(6) of the certified Mendocino County Coastal Zoning Code specifically includes developments approved “located in a sensitive coastal resource area” as among the types of developments appealable to the Coastal Commission.

Therefore, for all of the above reasons, the Commission finds that as (1) highly scenic areas are designated and mapped in the certified LCP as a sensitive coastal resource area, and (2) approved development located in a sensitive coastal resource area is specifically included among the types of development appealable to the Commission in the certified LCP, Mendocino County’s approval of local CDP No. 57-2008 is appealable to the Commission under Section 30603(a)(3) of the Coastal Act and Section 20.544.020(B)(6) of the certified Mendocino County Coastal Zoning Code.

APPENDIX B

LCP EXCERPTS

I. Wetlands LCP Policies

LCP Policies

Mendocino County LUP Policy 3.1-4 states:

As required by the Coastal Act, development within wetland areas shall be limited to:

1. *Port facility construction or expansion, Section 30233(a)(1).*
2. *Energy facility construction or expansion, Section 30233(a)(1).*
3. *Coastal-dependent industrial facilities such as commercial fishing facilities, construction or expansion, Section 30233(a)(1).*
4. *Maintenance or restoration of dredged depths or previously dredged depths in: navigational channels, turning basins, vessel berthing and mooring areas, and associated with boat launching ramps.*
5. *In wetland areas, only entrance channels for new or expanded boating facilities may be constructed, except that in a degraded wetland, other boating facilities may be permitted under special circumstances, Section 30233(a)(3). New or expanded boating facilities may be permitted in estuaries, Section 30233(a)(4).*
6. *Incidental public services purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
7. *Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
8. *Nature study purposes and salmon restoration projects.*
9. *Aquaculture, or similar resource dependent activities excluding ocean ranching. (See Glossary)*

In any of the above instances, the diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes, shall be permitted in accordance with all other applicable provisions of this plan. Such requirements shall include a finding that there is no feasible less environmentally damaging alternative and shall include mitigation measures required to minimize adverse environmental effects, in accordance with Sections 30233 and 30607, and other provisions of the Coastal Act.

Coastal Act Section 30233 states, incorporated by reference into the LUP:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and

where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

- (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
 - (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
 - (3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.*
 - (4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*
 - (5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
 - (6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
 - (7) Restoration purposes.*
 - (8) Nature study, aquaculture, or similar resource dependent activities.*
- (b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable longshore current systems.*
- (c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay,*

and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.

Coastal Act Section 30607, incorporated by reference into the LUP, states:

Any permit that is issued or any development or action approved on appeal, pursuant to this chapter, shall be subject to reasonable terms and conditions in order to ensure that such development or action will be in accordance with the provisions of this division.

Section 20.496.025 of the Mendocino County Coastal Zoning Code, states, in part, that:

(A) Development or activities within wetland and estuary areas shall be limited to the following:

- (1) Port facility expansion or construction.*
- (2) Energy facility expansion or construction.*
- (3) Coastal-dependent industrial facilities, such as commercial fishing facilities, expansion or construction.*
- (4) Maintenance or restoration of dredged depths or previously dredged depths in navigation channels, turning basins, vessel berthing and mooring areas, and associated boat launching ramps.*
- (5) In wetland areas, only entrance channels for new or expanded boating facilities may be constructed, except that, in a degraded wetland, other boating facilities may be permitted under special circumstances.*
- (6) New or expanded boating facilities may be permitted in estuaries.*
- (7) Incidental public service purposes which temporarily impact the resource including but not limited to burying cables and pipes, or inspection of piers, and maintenance of existing intake and outfall lines.*
- (8) Restoration projects which are allowable pursuant to Section 30233(a)(7) of the Coastal Act are publicly or privately financed projects in which restoration is the sole purpose of the project...*
- (9) Mineral extraction, including sand for restoring beaches, except in ESHA's.*
- (10) Nature study purposes and salmon restoration projects.*

(11) Aquaculture, or similar resource dependent activities excluding ocean ranching.

(B) Requirements for permitted development in wetlands and estuaries.

(1) Any proposed development that is a permitted development in wetlands and estuaries must meet the following statutory requirements, and supplemental findings pursuant to [Section 20.532.100](#):

(a) There is no feasible, less environmentally damaging alternative;

(b) Where there is no feasible, less environmentally damaging alternative, mitigation measures have been provided to minimize adverse environmental effects...

II. Environmentally Sensitive Habitat Area Protection LCP Policies

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

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

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

...Environmentally Sensitive Habitat Areas (ESHA's) include: anadromous fish streams, sand dunes, rookeries and marine mammal haul-out areas, wetlands, riparian areas, areas of pygmy vegetation which contain species of rare or endangered plants and habitats of rare and endangered plants and animals.

LUP Policy 3.1-7 states:

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

the environmentally sensitive habitat areas and shall not be less than 50 feet in width. New land division shall not be allowed which will create new parcels entirely within a buffer area. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent environmentally sensitive habitat area and must comply at a minimum with each of the following standards:

1. *It shall be sited and designed to prevent impacts which would significantly degrade such areas;*
2. *It shall be compatible with the continuance of such habitat areas by maintaining their functional capacity and their ability to be self-sustaining and to maintain natural species diversity; and*
3. *Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel. Mitigation measures, such as planting riparian vegetation, shall be required to replace the protective values of the buffer area on the parcel, at a minimum ratio of 1:1, which are lost as a result of development under this solution. [emphasis added]*

LUP Policy 3.1-2 states:

Development proposals in environmentally sensitive habitat areas such as wetlands, riparian zones on streams or sensitive plant or wildlife habitats (all exclusive of buffer zones) including, but not limited to those shown on the Land Use Maps, shall be subject to special review to determine the current extent of the sensitive resource. Where representatives of the County Planning Department, the California Department of Fish and Game, the California Coastal Commission, and the applicant are uncertain about the extent of sensitive habitat on any parcel such disagreements shall be investigated by an on-site inspection by the landowner and/or agents, County Planning Department staff member, a representative of California Department of Fish and Game, a representative of the California Coastal Commission. The on-site inspection shall be coordinated by the County Planning Department and will take place within 3 weeks, weather and site conditions permitting, of the receipt of a written request from the landowner/agent for clarification of sensitive habitat areas.

If all of the members of this group agree that the boundaries of the resource in question should be adjusted following the site inspection, such development should be approved only if specific findings are made which are based upon substantial evidence that the resource as identified will not be significantly degraded by the proposed development. If such findings cannot be made, the development shall be denied. Criteria used for determining the extent of wetlands and other wet environmentally sensitive habitat areas are found in Appendix 8 and shall be used

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

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

*(1) **Width.** The width of the buffer area shall be a minimum of one hundred (100) feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning staff, that one hundred (100) feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width. New land division shall not be allowed which will create new parcels entirely within a buffer area. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent Environmentally Sensitive Habitat Area.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Development shall be compatible with the continuance of such habitat areas by maintaining their functional capacity and their ability to be self-sustaining and to maintain natural species diversity.

(e) Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel. Mitigation measures, such as planting riparian vegetation, shall be required to replace the protective values of the buffer area on the parcel, at a minimum ratio of 1:1, which are lost as a result of development under this solution.

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

...

Section 20.532.100 of the Mendocino County Coastal Zoning Code, incorporated by reference into the Town code, states:

In addition to required findings, the approving authority may approve or conditionally approve an application for a permit or variance within the Coastal Zone only if the following findings, as applicable, are made:

(A) Resource Protection Impact Findings.

(1) Development in Environmentally Sensitive Habitat Areas. No development shall be allowed in an ESHA unless the following findings are made:

(a) The resource as identified will not be significantly degraded by the proposed development.

(b) There is no feasible less environmentally damaging alternative.

(c) All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted (emphases added).

III. Visual Resource Protection LCP Policies

LUP Policy 3.5-1 states in applicable part:

The scenic and visual qualities of Mendocino County coastal areas shall be considered and protected as a protected resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas designated by the County of Mendocino Coastal Element shall be subordinate to the character of its setting. (emphasis added)

LUP Policy 3.5-1 states:

The Town of Mendocino is designated as a "special community". Development in the Mendocino Town shall maintain and enhance community character, as defined in the Mendocino Town Plan.

Other communities and service centers along the Mendocino Coast including Westport, Caspar, Little River, Albion, Elk and Manchester shall have special protection to the extent that new development shall remain within the scope and character of existing development by meeting the standards of implementing ordinances.

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 development permitted in these areas shall provide for the protection of ocean

and coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes...

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. Variances from this standard may be allowed for planned unit development that provides clustering and other forms of meaningful visual mitigation. New development should be subordinate to natural setting and minimize reflective surfaces... (emphasis added)

LUP Policy 3.5-4 states in applicable part (emphasis added):

Buildings and building groups that must be sited within the highly scenic area shall be sited near the toe of a slope, below rather than on a ridge, or in or near the edge of a wooded area. Except for farm buildings, development in the middle of large open areas shall be avoided if an alternative site exists.

...

Minimize visual impact of development on ridges by (1) prohibiting development that projects above the ridgeline; (2) if no alternative site is available below the ridgeline, development shall be sited and designed to reduce visual impacts by utilizing existing vegetation, structural orientation, landscaping, and shall be limited to a single story above the natural elevation; (3) prohibiting removal of tree masses which destroy the ridgeline silhouette. Nothing in this policy shall preclude the development of a legally existing parcel.

LUP Policy 3.5-6 states in applicable part:

Development on a parcel located partly within the highly scenic areas delineated on the Land Use Maps shall be located on the portion outside the viewshed if feasible. Highly scenic areas delineation is approximate and shall be subject to review and correction if necessary at the time of a land development proposal or application.

...

LUP Policy 3.5-8 states in applicable part:

Power transmission lines shall be located along established corridors. Elsewhere transmission lines shall be located to minimize visual prominence. Where overhead

transmission lines cannot be located along established corridors, and are visually intrusive within a "highly scenic area", the lines shall be placed underground west of Highway One and below ridgelines east of Highway One if technically feasible. Certain lines shall, over time, be relocated or placed underground in accord with PUC regulations (see Big River Planning Area Policy 4.7-3 and Policy 3.11-9). Distribution lines shall be underground in new subdivisions.

LUP Policy 3.5-9 states in applicable part:

The location of all new access roads and driveways in rural areas shall be reviewed prior to any grading work to ensure safe location and minimum visual disturbance. Direct access to Highway 1 shall not be permitted where it is feasible to connect to an existing or proposed public road or to combine access points for two or more parcels.

Coastal Zoning Code Section 20.504.015 states in applicable part (emphasis added):

Highly Scenic Areas.

- (A) *The visual resource areas listed below are those which have been designated highly scenic and in which development shall be subordinate to the character of its setting:*

...
(1) *The entire Coastal Zone from the Ten Mile River estuary (including its wooded slopes, wetlands, dunes and ocean vistas visible from Highway 1) north to the Hardy Creek Bridge, except the Westport Beach subdivision...*
...

- (C) *Development Criteria.*

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

...

(5) *Buildings and building groups that must be sited in highly scenic areas shall be sited:*

- (a) Near the toe of a slope;*
- (b) Below rather than on a ridge; and*
- (c) In or near a wooded area.*

...

(8) *Minimize visual impact of development on ridges by the following criteria:*

- (a) Prohibiting development that projects above the ridgeline;*
- (b) If no alternative site is available below the ridgeline, development shall be sited and designed to reduce visual impacts by utilizing existing vegetation, structural orientation, landscaping, and shall be limited to a single story above the natural elevation;*
- (c) Prohibiting removal of tree masses which destroy the ridgeline silhouette.*

...

(10) *Tree planting to screen buildings shall be encouraged, however, new development shall not allow trees to interfere with coastal/ocean views from public areas.*

...

(11) *Power transmission lines shall be located along established corridors where possible and where the corridors are not visually intrusive.*

(12) *Power distribution lines shall be placed underground in designated "highly scenic areas" west of Highway 1 and in new subdivisions. East of Highway 1, power lines shall be placed below ridgelines if technically feasible.*

(13) *Access roads and driveways shall be sited such that they cause minimum visual disturbance and shall not directly access Highway 1 where an alternate configuration is feasible.*

Coastal Zoning Code Section 20.444.025(A) states in applicable part:

(A) ... Wind generators and their associated towers, air emission towers and smoke stacks may be built and used to a height of one hundred (100) feet as measured from the ground to the highest point of the system consistent with environmental constraints and in conformance with all applicable regulations of this Division.

Coastal Zoning Ordinance Section 20.504.035 states in applicable part:

(A) Essential criteria for the development of night lighting for any purpose shall take into consideration the impact of light intrusion upon the sparsely developed region of the highly scenic coastal zone.

(1) No light or light standard shall be erected in a manner that exceeds either the height limit designated in this Division for the zoning district in which the light is located or the height of the closest building on the subject property whichever is the lesser.

(2) Where possible, all lights, whether installed for security, safety or landscape design purposes, shall be shielded or shall be positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the parcel on which it is placed.

(3) Security lighting and flood lighting for occasional and/or emergency use shall be permitted in all areas.

(4) Minor additions to existing night lighting for safety purposes shall be exempt from a coastal development permit.

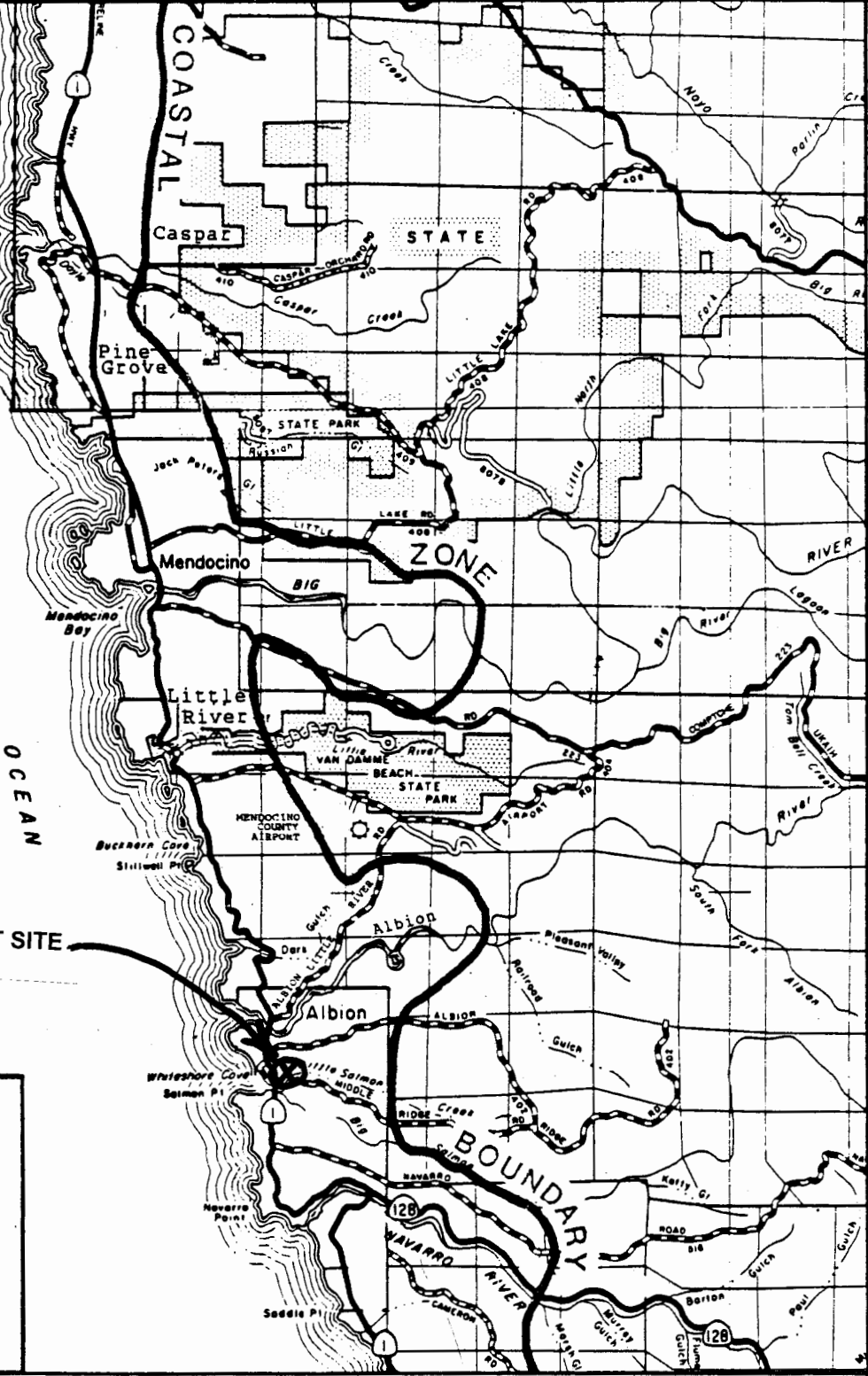
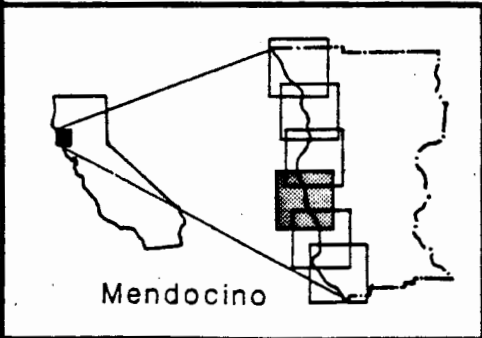
(5) No lights shall be installed so that they distract motorists.

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

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EXHIBIT NO. 1
APPEAL NO.
A-1-MEN-09-034
MARR & MALIN
REGIONAL LOCATION

PROJECT SITE



LOCATION MAP



County of Mendocino

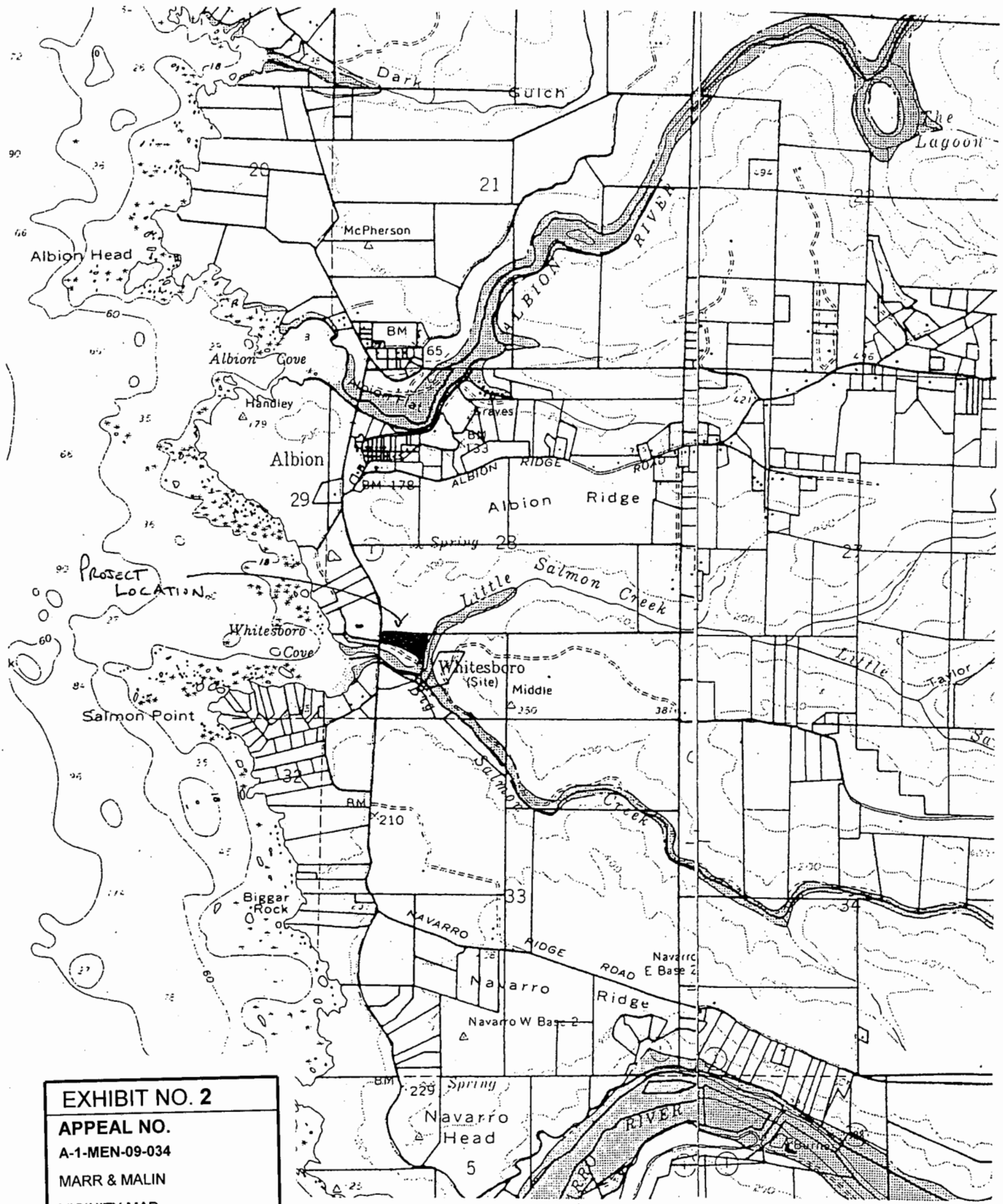
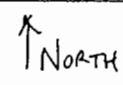
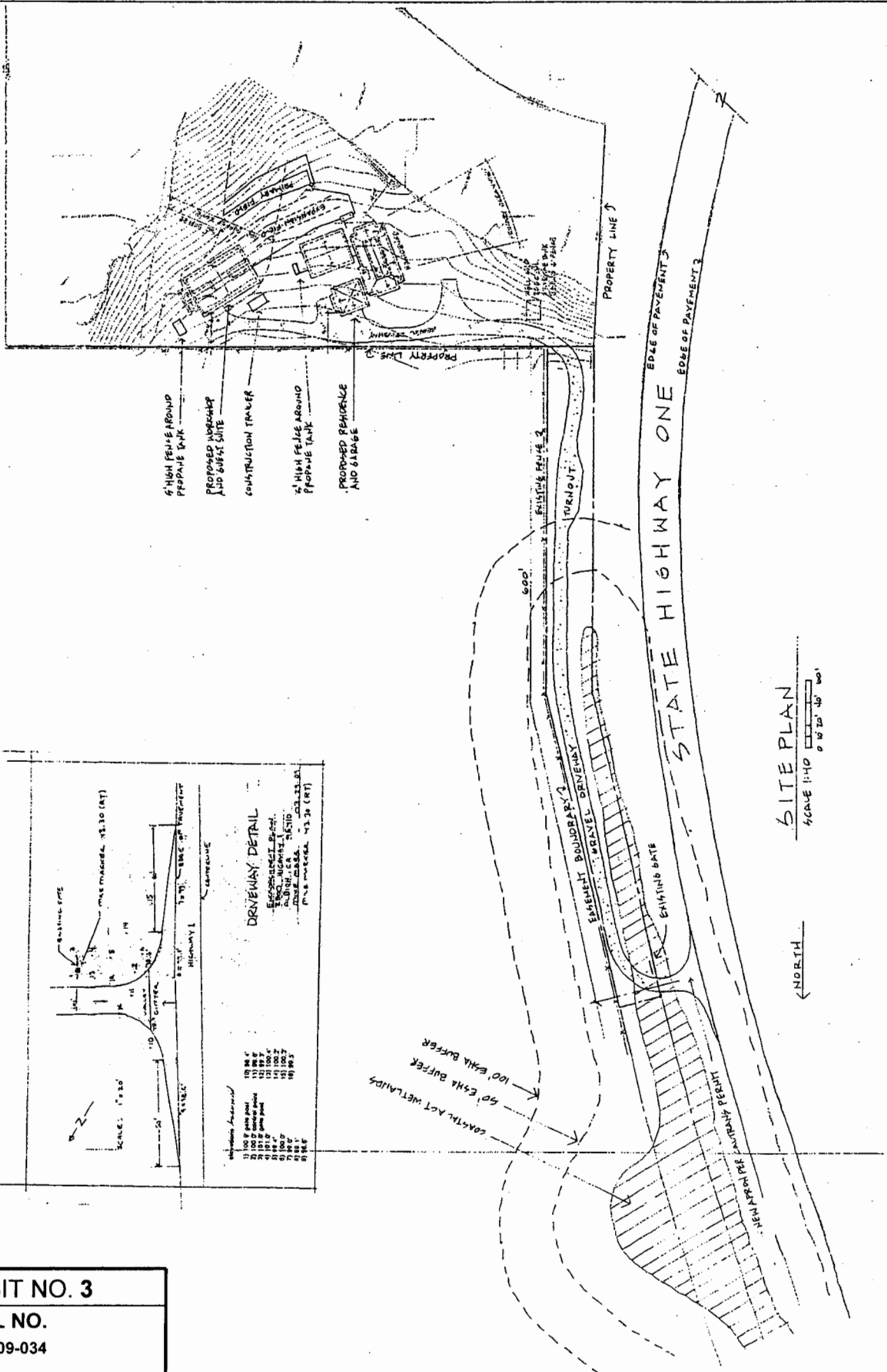


EXHIBIT NO. 2
APPEAL NO.
A-1-MEN-09-034
MARR & MALIN
VICINITY MAP

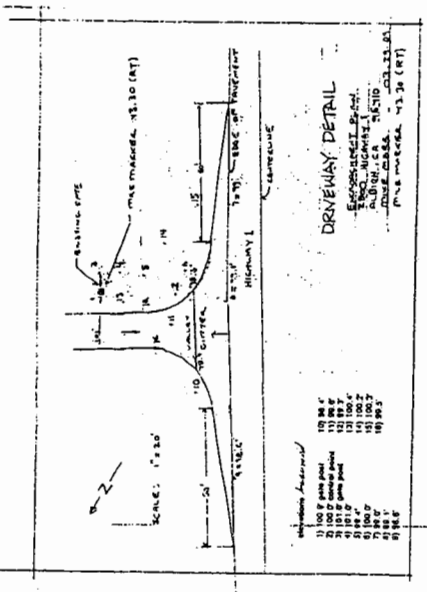
NO SCALE



Location Map



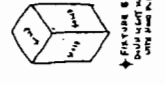
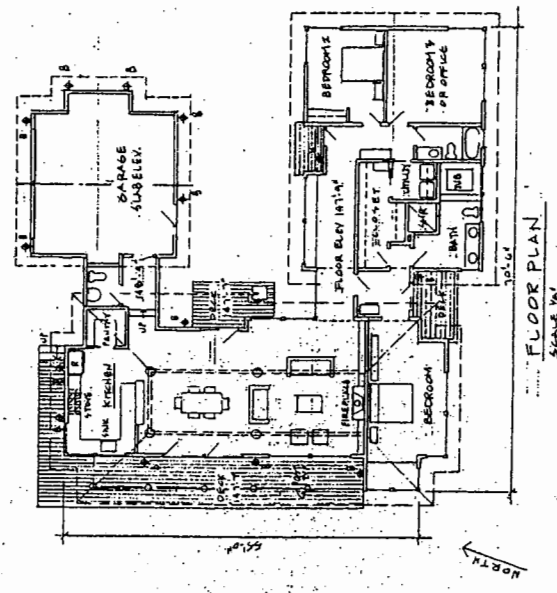
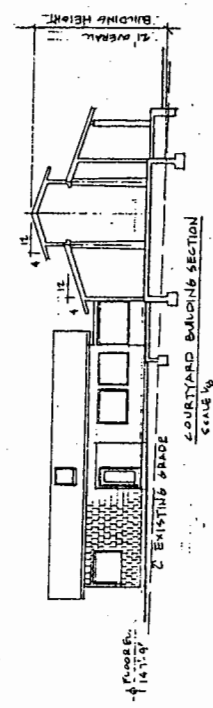
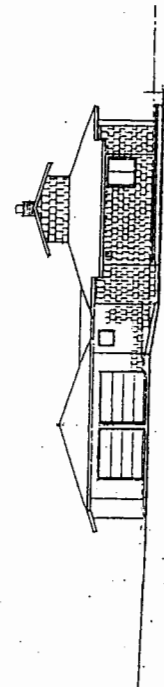
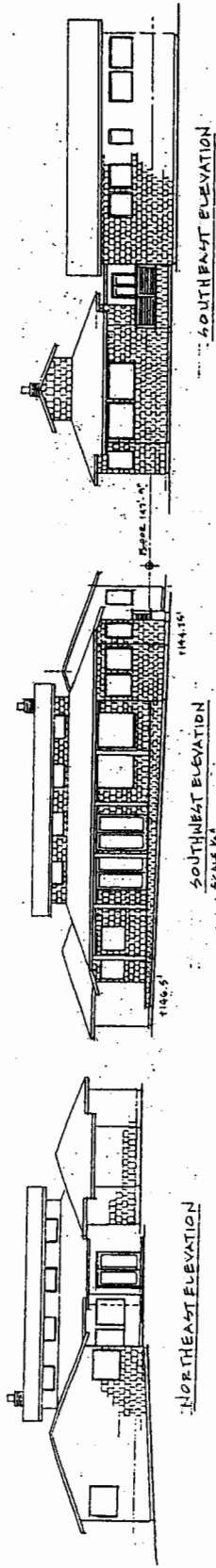
- 4' HIGH FENCE AROUND PROPANE TANK
- PROPOSED WORKWAY AND BURN SITE
- CONSTRUCTION TRAILER
- 4' HIGH FENCE AROUND PROPANE TANK
- PROPOSED REFERENCE AND GARAGE



SITE PLAN
SCALE 1" = 40'

NORTH

EXHIBIT NO. 3
APPEAL NO.
A-1-MEN-09-034
MARR & MALIN
SITE PLAN

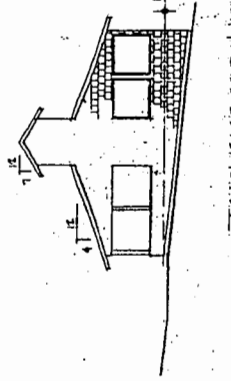


MAIN RESIDENCE:
 BUILDING SIDE:
 HOUSE: 2,831 sq. ft.
 GARAGE: 634 sq. ft.
 COVERED PORCHES: 328 sq. ft.

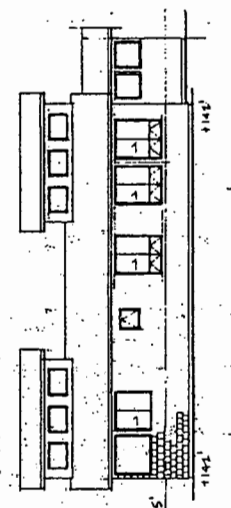
MAIN RESIDENCE:
 EXTERIOR BUILDING MATERIALS:

- 1) Siding shall be recessed shingles with a clear finish.
- 2) Windows shall be Class "A" Fibreglass Insulated Glass or Double Pane.
- 3) Windows shall be Milgard - Series American Aluminum with clear glass.
- 4) All metal shall be polished black/thrucoat finish, except copper.

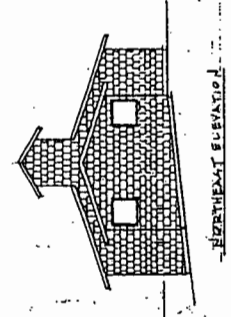
EXHIBIT NO. 4
APPEAL NO.
 A-1-MEN-09-034
 MARR & MALIN
 RESIDENCE PLANS



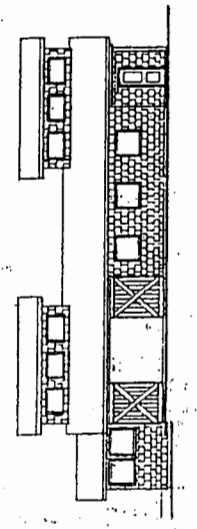
SOUTHWEST ELEVATION



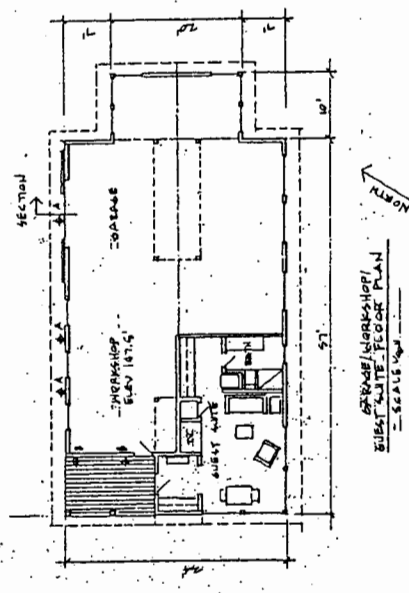
SOUTHWEST ELEVATION



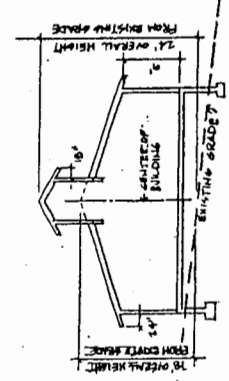
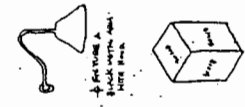
NORTHWEST ELEVATION



NORTHWEST ELEVATION



GARAGE/WORKSHOP/
GUEST SUITE FLOOR PLAN
SCALE 1/8" = 1'-0"



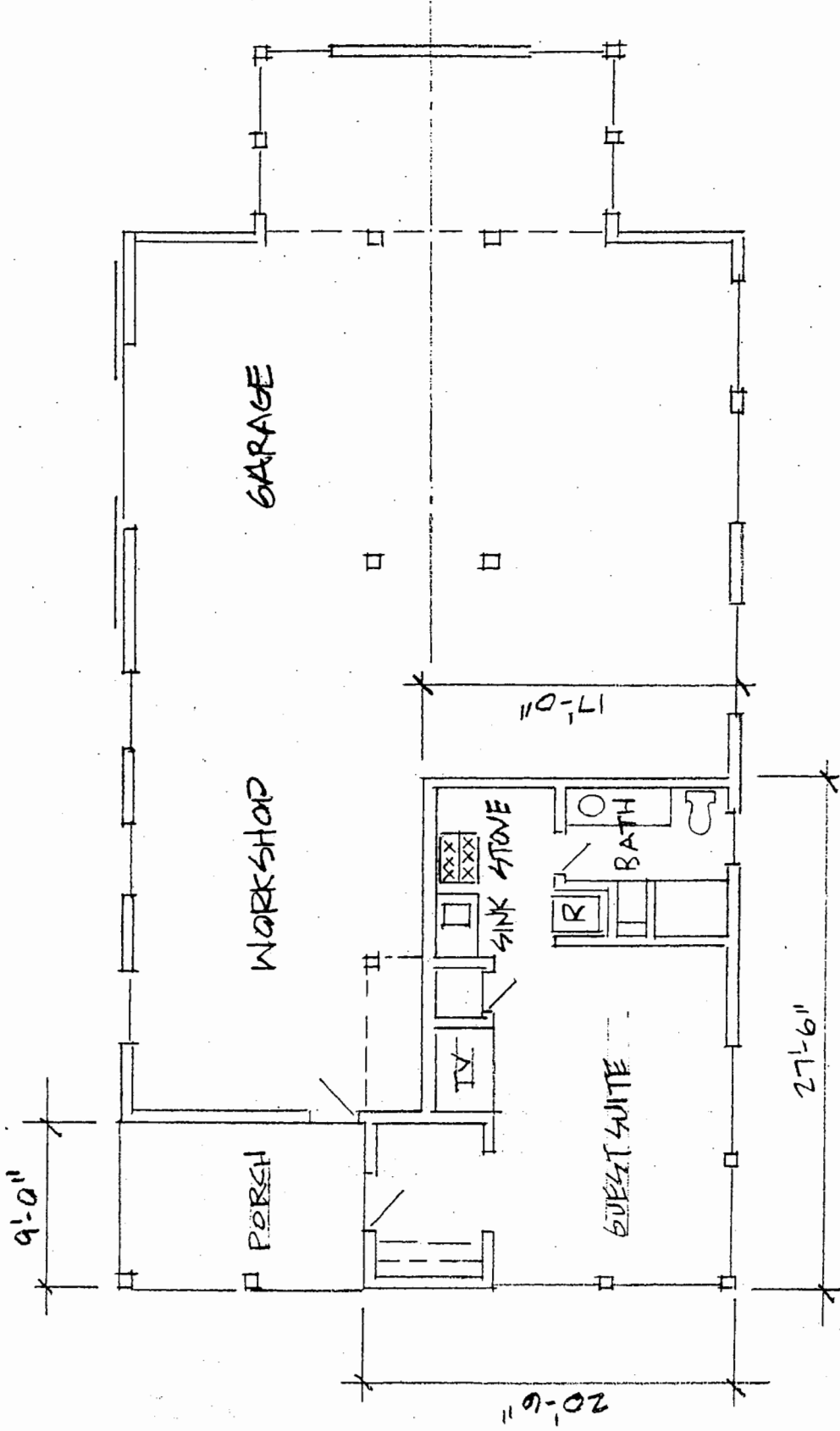
BUILDING SECTION
SCALE 1/8" = 1'-0"

BUILDING 2
GARAGE/WORKSHOP/GUEST SUITE
BUILDING SIZE

WORKSHOP/GARAGE	1,158 S.F.
GUEST SUITE	501 S.F.
COVERED PORCH	133 S.F.
TOTAL	2,138 S.F.

- BUILDING 2**
GARAGE/WORKSHOP/GUEST SUITE
EXTERIOR BUILDING MATERIALS:
- 1) Siding shall be horizontal lap siding with white finish.
 - 2) Roof shall be asphalt/fluor shingles with black or charcoal grey.
 - 3) Windows shall be lightest, bronze Anodized Aluminum with clear.
 - 4) All metal shall be painted black/charcoal grey, except copper.

EXHIBIT NO. 5
APPEAL NO.
A-1-MEN-09-034
MARR & MALIN
ACCESSORY BUILDING
PLANS (1 of 2)



PLAN 'A' GARAGE/WORKSHOP/GUEST SUITE
 W/ TEMPORARY KITCHEN 02-25-09

MARY/MALIN RESIDENCE
 2800 HIGHWAY ONE

2 of 2

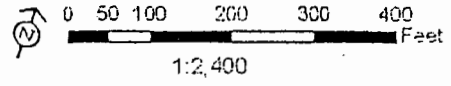
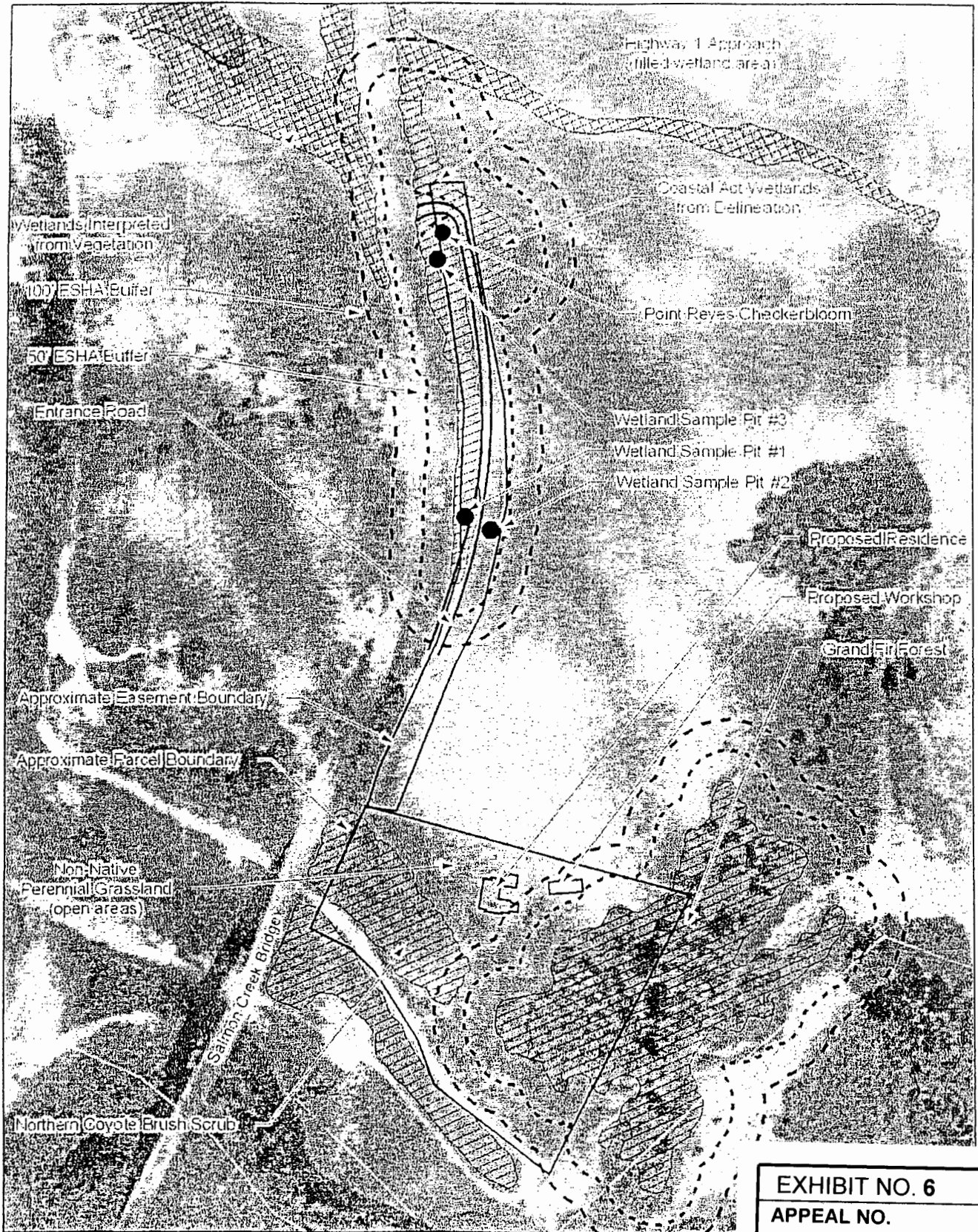


Figure 1. ESHA Map with Buffers. Wetland delineation

EXHIBIT NO. 6
APPEAL NO.
A-1-MEN-09-034
MARR & MALIN
WETLANDS & ESHA

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
710 E STREET, SUITE 200
EUREKA, CA 95501
VOICE (707) 446-7833 FAX (707) 446-7877



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: ^{Albion Residents Association} Melissa Hays and Rixanne Wehren for the Sierra Club

Mailing Address: PO Box 415

City: Albion

Zip Code: Ca 95410

Phone: 707-937-0090

SECTION II. Decision Being Appealed

EXHIBIT NO. 7
APPEAL NO. A-1-MEN-09-034
MARR & MALIN
APPEAL (1 of 6)

1. Name of local/port government:

Mendocino County Planning and Building

2. Brief description of development being appealed:

Construct a 2,524 +/- square foot single family residence with a 634 +/- square foot attached garage and 329 +/- square foot covered porches for a total of 3,487 +/- sq feet. The proposed single story structure would have a maximum average height of 21 feet above natural grade. Construct a detached accessory structure which includes a 1,516 +/- sq foot garage/workshop, a 501 +/- sq foot guest cottage and 121 +/- covered porch. The proposed accessory structure would have a maximum average height of 24 feet above natural grade and a total size of 2,138 +/- sq feet. The guest cottage would be occupied as a temporary residence before and during construction of the proposed residence. Associated development includes: upgrading an existing encroachment onto Highway 1, construct a 900 +/- foot long driveway, place a construction trailer, install a septic disposal system, drill a water well and install a water storage tank.

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

In the Coastal Zone, 1/4 +/- mile south of Albion and immediately north of Salmon Creek, on the east side of Highway 1 at 2800 North Highway 1 (APN: 123-350-06).

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

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

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JUL 27 2009

CALIFORNIA
COASTAL COMMISSION

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

<u>TO BE COMPLETED BY COMMISSION:</u>
APPEAL NO: <u>A-1-MEN-09-034</u>

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE

710 E STREET, SUITE 200

EUREKA, CA 95501

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



DATE FILED:	<u>7/27/09</u>
DISTRICT:	<u>North Coast</u>

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

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

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

6. Date of local government's decision: June 25, 2009

7. Local government's file number (if any): CDP 57-2008

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Michael Marr and Judith Malin
43 Hillside Ave
Portsmouth RI 02871

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

(1) Melissa Hays, PO Box 415, Albion Ca 95410

(2) Rixanne Wehren, ~~Albion Ca 95410~~, Albion Ca 95410
27401 Albion Ridge Rd.

(3)

(4)

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)**SECTION IV. Reasons Supporting This Appeal****PLEASE NOTE:**

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

We are appealing this coastal permit decision of local government because it is inconsistent with these sections of our Local Coastal Plan:

1. 3.1-2 and 3.1-7 The ESHA along the highway is not protected by the 100' buffer that is required.
2. 3.5-1, 3.5-2, 3.5-3 This proposed development is not sited and designed to protect views to and along the ocean and scenic coastal areas. It does not minimize the alteration of natural land forms and is not visually compatible with the character of surrounding areas. It is not subordinate to the character of its setting, but instead is too tall and visible from the highway and makes no effort to "tuck" into the setting. There are no other developments of its style in the area and it is not within the scope and character of existing development.
3. 3.5-3 This location is designated Highly Scenic. This proposed development is over 5,600 sq ft and does not provide for the protection of ocean and coastal views from public areas including Highway 1, Salmon Creek beach, and stream and the ocean. The public has been looking at the story poles for months recognizing that this 5,600 sq ft project is going to tower over the Highway and destroy the Highly Scenic ridgeline view. The special condition of planting trees is unrealistic as we have a tree virus which is killing our trees. The proposed site is located in a very windy area close to the ocean which is difficult for the growth and health of trees.
4. 3.5-4 This proposed location is sited on the top of a ridge. The parcel was created from a CoC and a boundary line adjustment and the site is zoned Rangeland 160. The magnitude of the proposed project is inappropriate for the site. The property is not buildable without destroying the intent of the Local Coastal Plan and intended zoning. The property is too small to tuck this massive development out of site. There is no fundamental or constitutional right to development of a CoC. The planner himself suggests that the site is so visible that any height of a building would be highly visible.
5. 3.5-8 Power transmission lines which will be visually intrusive within highly scenic corridors should be placed underground and there is no comment regarding this point in the application.
6. 3.5-9 The proposed application creates an encroachment onto Highway 1 and a 900 +/- foot long driveway to the home on top of the ridge. This road will parallel Highway 1 and be extremely visible as it will be placed in grassland destroying the scenic vista of the Anderson Ranch. Direct access to Highway 1 does not protect the coastal views. This road also crosses an ESHA. The application does not take into consideration the fact that Cal Trans is going to widen the road and replace the Albion Bridges,

and Salmon Creek

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7. Mendocino County Zoning Code Division II of Title 20

- a) Section 20.524.010 (B)
- b) Section 20.504.005, 20.504.010, 20.504.015
- c) Section 20.532.050, 20.532.095

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

SECTION V. Certification

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

Signature on File
Signature _____ of Authorized Agent

Date: 7/24/09

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

Section VI. Agent Authorization

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

Signature of Appellant(s)

Date: _____

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COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES
790 SOUTH FRANKLIN STREET · FORT BRAGG · CALIFORNIA · 95437

IGNACIO GONZALEZ, DIRECTOR
Telephone 707-964-5379
FAX 707-961-2427
www.co.mendocino.ca.us/planning

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JUL 13 2009

CALIFORNIA
COASTAL COMMISSION

July 8, 2009

NOTICE OF FINAL ACTION

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

CASE#: CDP #57-2008

OWNER: Michael Marr & Judith Malin

APPLICANT: Bob Hartstock

REQUEST: Construct a 2,524± square foot single family residence with a 634± square foot attached garage and 329± square feet of covered porches for a total size of 3,487± square feet. The proposed single story structure would have a maximum average height of 21 feet above natural grade. Construct a detached accessory structure which includes a 1,516± square foot garage/workshop, a 501± square foot guest cottage and 121± covered porch. The proposed accessory structure would have a maximum average height of 24 feet above natural grade and a total size of 2,138± square feet. The guest cottage portion of the accessory structure would be occupied as a temporary residence before and during construction of the proposed residence. Associated development includes: upgrading an existing encroachment onto Highway One, construct a 900± foot long driveway, place a construction trailer, install a septic disposal system, drill a water well and install a water storage tank.

LOCATION: In the Coastal Zone, ¼ ± mile south of Albion and immediately north of Salmon Creek, on the east side of Highway One at 2800 North Highway One (APN: 123-350-06).

PROJECT COORDINATOR: Rick Miller

HEARING DATE: June 25, 2009

APPROVING AUTHORITY: Coastal Permit Administrator

ACTION: Approved with Conditions.

See staff report for the findings and conditions in support of this decision.

The project was not appealed at the local level.

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

EXHIBIT NO. 8

APPEAL NO.

A-1-MEN-09-034

MARR & MALIN

NOTICE OF FINAL LOCAL
ACTION (1 of 40)

COASTAL PERMIT ADMINISTRATOR ACTION SHEET

CASE#: CDP # 57-2008 HEARING DATE: 6/25/09

OWNER: Marr/Malin

ENVIRONMENTAL CONSIDERATIONS:

- Categorically Exempt
- Negative Declaration
- EIR

FINDINGS:

- Per staff report
- Modifications and/or additions

SEP. ~~At~~ June 24, 2009 Memo "ADDENDUM to CDP 57-2008"
THAT ILLUSTRATE 10 FINDINGS

ACTION:

- Approved
- Denied
- Continued _____

CONDITIONS:

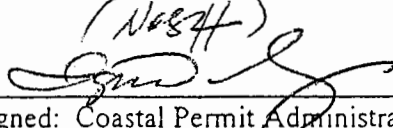
- Per staff report
- Modifications and/or additions

* MODIFICATIONS OF SPECIAL CONDITIONS ON PG CPA-15

Modified CONDITION 3d ADDING sentence at end of condition
to read: "However, this shall not be applicable to those
areas within Caltrans Right-of-Way."


Modify COND #4 Amend first sentence to read:

"Prior to issuance of the Coastal Permit,
 the Applicant shall submit for review
 and approval of the Coastal Permit
 Administrator a landscape/planting plan to
 provide a visual buffer of the development
 as viewed from Highway One, south of
 ..."

(North)

 Signed: Coastal Permit Administrator

Mendocino County Dept. of Planning & Building Services
Coastal Planning Division
790 South Franklin Street
Fort Bragg, CA 95437
707 964-5379 (tel) • 707 961-2427 (fax)

MEMORANDUM

TO: Coastal Permit Administrator
FROM: Rick Miller, Project Coordinator 
DATE: June 24, 2009
SUBJECT: Addendum to CDP 57-2008 (Marr & Malin)

The intent of this addendum is to provide additional analysis for the project findings found on Page CPA 12-13 of the staff report required to approve the project and provide a preliminary response to the public comments received in response to the staff report.

Section 20.532.095 of the MCCZC lists the required findings for any coastal development permit. These findings are generally supported by the body of the staff report which methodically analyzes the project's consistency with the LCP. This analysis is broken down into section headings in the report which mirror the order and content of the coastal zoning code, the implementing ordinance for the Coastal Element. Page CPA-2 of the report provides a summary of issues as they relate to the LCP that staff identified as presenting potential issues. The proposed project raises issues regarding: (1) use of the proposed guest cottage for residential use before and during construction of the residence, (2) geotechnical bluff setback, (3) visual impacts due to its location in a designated Highly Scenic Area and its visibility from Highway One, and (4) natural resources protection and mitigation measures. Regarding the fourth issue, natural resources, staff recommends adding supplemental findings for approval as required by Section 20.532.100 (A) (1) of MCCZC to provide a greater assurance for the CPA that the project is in compliance with the intent of natural resource protection requirements of the LCP.

FINDINGS:

1. *The proposed development is in conformity with the certified Local Coastal Program; and*

The proposed residential development is a principally permitted use of the Range Lands Zoning District per Chapter 20.368 of MCCZC. Use of the proposed accessory structure for occupancy prior to and during construction of the proposed SFR is addressed in Special Condition Number 1. The site is located east of Highway One and the project does not create any public access issues. Hazards have been adequately addressed in the report including hazards associated with the river bluff per Chapter 20.500 of the MCCZC, see Special Conditions Number 2 and 3. Also, Calfire has reviewed the project and provided a Fire Safe Standards clearance for the project, see Standard Condition Number 4. The development is located in a designated Highly Scenic Area on the East side of Highway One. Page CPA 5-8 provide detailed analysis of the project's compliance with visual resource protection requirements of the LCP. Special Condition Number 4 has been added for this purpose. Grading, erosion and runoff requirements have been analyzed and a Special Condition Number 5 has been added. The natural resource analysis has been extensive for the project. A comprehensive report has been prepared for the project. The project was modified to eliminate wetland impacts by using the existing ranch gate encroachment of Highway One as opposed to installing a new driveway encroachment in wetland habitat, see Special Condition Number 6. This

topic will be discussed in greater detail below and staff is recommending the adoption of supplemental findings for the encroachment. An Archaeological report has been prepared and approved by the Mendocino County Archaeological Commission for the project and Standard Condition Number 8 is added for extra assurance. The County Division of Environmental Health has reviewed the project and the development would be served by an on-site septic disposal system and on-site water well. The owner has obtained an encroachment permit from Caltrans for the driveway onto Highway One.

2. *The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities; and*

As discussed throughout the staff report, adequate utilities, access and other necessary facilities can be provided.

3. *The proposed development is consistent with the purpose and intent of the applicable zoning district, as well as all other provisions of Division II, and preserves the integrity of the zoning district; and*

With the exception of the legal non-conforming parcel size for the RL 160 Zoning District, the project is consistent with the purpose and intent of the LCP as discussed in detail in the staff report.

4. *The proposed development, if constructed in compliance with the conditions of approval, will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.*

Staff has determined the project is categorically exempt from CEQA per Class 3 and the project would not have any significant adverse impacts on the environment.

5. *The proposed development will not have any adverse impacts on any known archaeological or paleontological resource.*

This finding can be made, see Page CPA 12 and Standard Condition Number 8.

6. *Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.*

The project is within the service district of Empire Waste Management and is in close proximity to the Albion Transfer Station located on Albion Ridge Road for solid waste disposal. An encroachment permit has been issued by Caltrans for the driveway opening onto Highway One. Telephone, and PG&E power can be extended to the project site.

Section 20.532.100 of MCCZC provides required supplemental findings where they are applicable. The site is zoned Range Lands so the following finding was added to Page CPA 13 of the report. The subject parcel is only four acres in size. The parcel was legally recognized through the Certificate of Compliance process. The project does not preclude the use of the property for grazing or farming purposes anymore than the parcel would enjoy without the proposed residential improvements. Therefore Finding Number 7 was included in the staff report.

Natural Resources (wetlands adjacent to the highway):

Section 20.532.100 (A) (1) of MCCZC provides supplemental findings for development within an ESHA. The project does not propose any new development within the identified ESHAs. Due to state budget constraints, the Department of Fish and Game personnel who usually provides a site review and consultation on the reduced ESHA buffers and proposed mitigation measures was not permitted to travel during our project review period. However, the project has been carefully designed to reduce and eliminate project impacts. Page CPA 9-12 discusses the ESHAs and their respective protective buffers. The proposed driveway encroachment was relocated south of the original area in order to avoid the need to fill a previously undisturbed wetland. By utilizing the existing ranch gate opening, the project eliminated the need to place any new fill material in the wetland. The original area was proposed where the wetland is the widest and has not previously been disturbed. The encroachment relocation also eliminated the need for the second Calfire turnout which clipped the edge of the wetland because it reduced the overall length of the driveway. There is no alternative access to the site except directly off Highway One. Extensive mitigation measures have been added to the project per Special Condition Number 6 to ensure that the resources will not be degraded by the project. Section 20.532.100 (A) (1) of MCCZC requires the following findings for development in an ESHA:

8. The resource as identified will not be significantly degraded by the proposed development.
9. There is no feasible less environmentally damaging alternative.
10. All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.

Public Comments:

A letter was received from the Sierra Club, Mendocino Group on the project. They request the CPA deny the project due to inconsistencies with the Range Lands Zoning District, visual resource protection and ESHA protections. A second letter received from Melissa Hays also recommends denial of the project due to SB 497 and the County's use of Certificates of Compliance.

Zoning: The subject parcel was recognized through the Certificate of Compliance process. The four acre site is a legal non-conforming parcel size. It is no unusual to have existing parcels which do not meet the current minimum lot size of the district. The four acre site simply cannot be subdivided. Each legal parcel of record is eligible to have one single family residence and accessory structures as long as the proposal meets the requirements for development per the LCP. The staff report documents the projects compliance with the LCP.

Visual Resources: The site is located in a designated Highly Scenic Area on the east side of Highway One. The maximum height limit is 28 feet. The height limit on the west side of Highway One is 18 feet and a single story unless an increase in height can be shown to not have a substantial negative impact and is found to be in character with surrounding development. This limitation does not apply to the east side of the highway. The height limit is simply 28 feet. The project complies with this height limit.

Natural Resources: The project has been carefully designed and revised to minimize and reduce all resource impacts as discussed in great detail in the report and this addendum.



COUNTY OF MENDOCINO

DEPARTMENT OF PLANNING AND BUILDING SERVICES

790 SOUTH FRANKLIN STREET · FORT BRAGG · CALIFORNIA · 95437

notice marr malin cdp 57-2008

IGNACIO GONZALEZ, DIRECTOR

Telephone 707-964-5379

FAX 707-961-2427

www.co.mendocino.ca.us/planning

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JUN 19 2009

CALIFORNIA COASTAL COMMISSION

June 11, 2009

PUBLIC NOTICE OF PENDING ACTION
STANDARD COASTAL DEVELOPMENT PERMIT

The Mendocino County Coastal Permit Administrator, at a regular meeting to be held Thursday, June 25, 2009 in the Planning and Building Services Conference Room, 790 South Franklin Street, Fort Bragg, at 10:00 a.m. or as soon thereafter as the item may be heard, will hear the below described project that is located in the Coastal Zone.

CASE #: CDP #57-2008
DATE FILED: 10/6/2008
OWNER: Michael Marr & Judith Malin
APPLICANT: Bob Hartstock
REQUEST: Construct a 2,524± square foot single family residence with a 634± square foot attached garage and 329± square feet of covered porches for a total size of 3,487± square feet. The proposed single story structure would have a maximum average height of 21 feet above natural grade. Construct a detached accessory structure which includes a 1,516± square foot garage/workshop, a 501± square foot guest cottage and 121± covered porch. The proposed accessory structure would have a maximum average height of 24 feet above natural grade and a total size of 2,138± square feet. The guest cottage portion of the accessory structure would be occupied as a temporary residence before and during construction of the proposed residence. Associated development includes: upgrading an existing encroachment onto Highway One, construct a 900± foot long driveway, place a construction trailer, install a septic disposal system, drill a water well and install a water storage tank.

LOCATION: In the Coastal Zone, ¼ ± mile south of Albion and immediately north of Salmon Creek, on the east side of Highway One at 2800 North Highway One (APN: 123-350-06).

PROJECT COORDINATOR: Rick Miller

As you are an adjacent property owner and/or interested party, you are invited to appear at the hearing, or to direct written comments to this office at the above address. If you would like to be notified of the Coastal Permit Administrator's action, please submit a written request to this office. All correspondence should contain reference to the above noted case number.

The decision of the Coastal Permit Administrator shall be final unless a written appeal is submitted to the Board of Supervisors with a filing fee within 10 calendar days thereafter. If appealed, the decision of the Board of Supervisors to approve the project shall be final unless appealed to the Coastal Commission in writing within 10 working days following Coastal Commission receipt of a Notice of Final Action on this project.

If you challenge the above case in court, you may be limited to raising only those issues described in this notice or that you or someone else raised at the public hearing, or in written correspondence delivered to the Coastal Permit Administrator at or prior to, the public hearing.

Additional information regarding the above noted case may be obtained by calling the Planning and Building Services Department at 964-5379, Monday through Friday.

Staff reports for agenda items may be accessed and printed from the County website. Go to www.co.mendocino.ca.us/planning

Click on the Boards and Commissions link, click on Coastal Permit Administrator, click on the hearing date

Frank Lynch, Coastal Permit Administrator

STAFF REPORT FOR
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 57-2008(Marr & Malin)
June 25, 2009
CPA-1

OWNERS: Michael Marr & Judith Malin
43 Hillside Ave.
Portsmouth, RI 02871

APPLICANT/AGENT: Bob Hartstock
PO Box 319
The Sea Ranch, CA 95497

REQUEST: Construct a 2,524± square foot single family residence with a 634± square foot attached garage and 329± square feet of covered porches for a total size of 3,487± square feet. The proposed single story structure would have a maximum average height of 21 feet above natural grade. Construct a detached accessory structure which includes a 1,516± square foot garage/workshop, a 501± square foot guest cottage and 121± covered porch. The proposed accessory structure would have a maximum average height of 24 feet above natural grade and a total size of 2,138± square feet. The guest cottage portion of the accessory structure would be occupied as a temporary residence before and during construction of the proposed residence. Associated development includes: upgrading an existing encroachment onto Highway One, construct a 900± foot long driveway, place a construction trailer, install a septic disposal system, drill a water well and install a water storage tank.

LOCATION: In the Coastal Zone, ¼ ± mile south of Albion and immediately north of Salmon Creek, on the east side of Highway One at 2800 North Highway One (APN: 123-350-06).

APPEALABLE AREA: Yes (Highly Scenic Area & ESHA)

PERMIT TYPE: Standard

TOTAL ACREAGE: 4.17 ± Acre

ZONING: Range Lands

GENERAL PLAN: RL - 160

EXISTING USES: Undeveloped

SUPERVISORY DISTRICT: 5th

ENVIRONMENTAL DETERMINATION: Categorically Exempt Class 3

CALIFORNIA COASTAL RECORD IMAGE: 200503594

OTHER RELATED APPLICATIONS: This parcel was originally part of a larger ranch, the Anderson Ranch. Certificate of Compliance # CC 27-92 and CC 1-2000 recognized 29 legal parcels on the original ranch. The current parcel configuration of the subject parcel was the result of Coastal Development Boundary Line Adjustment (CDB) 76-2004 which reconfigured four of the CC parcels into three. CDB 76-2004 was approved by the CPA 3/25/05 and a BLA completion certificate was issued 1/4/2006. As a side note, #CDB 36-2000 was a project to reconfigure the parcels recognized by CC 27-92 & CC 1-2000 which was approved by the Coastal Permit Administrator on June 29, 2001 but was subsequently appealed to the Coastal Commission. The application has since been withdrawn. Additionally, #CDB 28-96 was approved by the Coastal Permit Administrator October 25, 1996, which reconfigured two of the CC parcels but the application was never completed.

PROJECT DESCRIPTION: The owner would construct a 2,524± square foot single family residence with a 634± square foot attached garage and 329± square feet of covered porches for a total size of 3,487± square feet on an approximately four acre parcel situated on the north side of Salmon Creek adjacent to Highway One. The proposed single story structure would have a maximum average height of 21 feet above natural grade. A detached accessory structure would be built which includes a 1,516± square foot garage/workshop, a 501± square foot guest cottage and 121± covered porch. The proposed accessory structure would have a maximum average height of 24 feet above natural grade and a total size of 2,138± square feet. The guest cottage portion of the structure would be occupied as a temporary residence while the proposed home is being constructed. Both structures would be clad in redwood shingle siding with a clear finish, black or charcoal grey composition shingles and bronze anodized aluminum windows. Associated development includes upgrading an existing encroachment onto Highway One north of the building site and a 900± foot long driveway which parallels the highway and then turns east to the proposed building sites. A construction support trailer would be placed near the proposed workshop. A new on site septic disposal system would be installed northeast of the proposed residence. A new on site water well would be drilled and a 2,000 gallon water storage tank would be installed behind a six foot tall fence. An LPG tank would be installed behind a five foot tall fence surround near the northwest side of the proposed workshop.

The agent explained that the owner intends to build the workshop/guest cottage structure first. The guest cottage will have a temporary kitchen, bath and multi-use room. Once the workshop structure has been completed, the owner will proceed to construct the single family dwelling and attached garage. During construction, the owner will be living in the guest cottage portion of the workshop. Once the main dwelling is complete, the owner will move out of the guest cottage and remove the temporary kitchen.

SUMMARY OF ISSUES: The proposed project raises issues regarding: (1) use of the proposed guest cottage for residential use before and during construction of the residence, (2) geotechnical bluff setback, (3) visual impacts due to its location in a designated Highly Scenic Area and its visibility from Highway One, and (4) natural resources protection and mitigation measures.

LOCAL COASTAL PROGRAM CONSISTENCY RECOMMENDATION: The proposed project is consistent with the applicable goals and policies of the Local Coastal Program as described below.

Land Use: The parcel is classified on the Coastal Plan Map as Range Lands (RL). The parcel is similarly zoned: RL: L-160. The proposed single-family residence and associated development are permitted uses within the Range Lands Zoning District, and are consistent with the Range Lands land use classification.

STAFF REPORT FOR
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 57-2008(Marr & Malin)
June 25, 2009
CPA-3

The required yard setbacks for a parcel in a RL zone are usually 50 feet from all property lines but the subject parcel is less than five acres so the setbacks can be reduced to 20 feet. Calfire is requiring a minimum setback of 30 feet for all structures through their Fire Safe Regulations. As shown on the Site Plan, the structures comply with setbacks required by the County Zoning Code and Calfire.

The site is within a designated highly scenic area on the east side of Highway One, therefore the height limit is 28 feet above natural grade. The proposed residence and detached workshop structures would enjoy maximum average heights of 21 and 24 feet above natural grade respectively. Additionally, the project complies with lot coverage limits.

The proposed use is compatible with the long-term protection of agricultural resource lands, and the supplemental finding for resource lands with the Range Lands designation, found in Section 20.532.100(A)(2) of the Mendocino County Coastal Zoning Code (MCCZC), is included as Finding Number 7 near the end of this report.

Guest cottages and shops are compatible with the Range Lands zoning district and are designated as permitted accessory uses pursuant to Chapter 20.456 of the Mendocino County Coastal Zoning Code which states the following:

Subject to the restrictions and limitations of this Chapter, including the granting of a Coastal Development Permit, where applicable, the following accessory buildings and uses shall be permitted in all zoning districts which allow a single-family residence:

(D) Shops (non-business)

(G) Accessory Living Unit. Not more than one accessory living unit for each legal parcel.

An "Accessory Living Unit" as defined in Section 20.308.020 is as follows:

...a detached bedroom as defined in Section 20.308.035(B) or a guest cottage as defined in Section 20.308.050(I).

A "Guest Cottage" as defined in Section 20.308.050(I) is as follows:

...a detached building (not exceeding six hundred forty (640) square feet of gross floor area), of permanent construction, without kitchen, clearly subordinate and incidental to the primary dwelling on the same lot, and intended for use without compensation by guests of the occupants of the primary dwelling.

As explained in the Project Description above, the owner would occupy the guest cottage as a "temporary" residence until the proposed main residence is completed. The agent stated that when the guest cottage is remodeled to remove the kitchen the stove would be removed but the wetbar (counter and sink) and refrigerator would remain for future guests to use. However, the guest cottage regulations state that cottages shall not contain facilities, either permanent or temporary and portable, for the cooking or preparation of food. Therefore, the wetbar and refrigerator would need to be removed from the guest cottage.

Special Condition Number 1 is recommended to ensure the guest cottage will not have a kitchen or cooking facilities, will be clearly subordinate and incidental to the primary dwelling and will not be

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separately rented, let, or leased whether compensation be direct or indirect. The condition also addresses the temporary use of the guest cottage as a residence before and during construction of the proposed single family residence.

Public Access: The project site is located east of Highway 1 and public access to the shoreline will not be affected by the project.

Hazards: The subject parcel is adjacent to a bluff associated with the north bank of the Little-Big Salmon Rivers. The LUP contains policies relating to development on parcels subject to threats from geologic hazards.

Policy 3.4-7 of the Coastal Element of the General Plan states:

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:

$$\text{Setback (meters)} = \text{Structure life (years)} \times \text{Retreat rate (meters/year)}$$

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 geologists report

Blufftop setback requirements for new structures pursuant to Coastal Element Policy 3.4-7 are codified by Section 20.500.020(B)(1) of the MCCZC. The owner obtained a Geotechnical and Geologic Investigation report (dated June 2008) from SHN Consulting Engineers and Geologists, Inc. which addresses the proposed project. According to SHN, the subject property is located approximately ¼ mile south of Albion on a gently, southwest sloping stream valley wall or bluff-top. The bluff top is composed of an uplifted marine terrace that is bound to the south by the left bank of the Little-Big Salmon Rivers and to the west by Highway One. The southerly boundary of the project area abuts the crown of a southwest facing cliff that parallels the north bank of the river. Slope gradients on the face of the bluff range from 50% to near vertical, with the steeper areas affiliated with resistant bedrock outcrops. The bluff has an access road cut across the lower benches. Recent and historic ground movement is evident along portions of the bluff edge as well as on the surfaces of the bluff slope leading down to the Little and Big Salmon Rivers. SHN goes on to say that vegetation at the site consists mainly of grasses and forbs covering the open sites and several stands of trees to the east, with dense brush extending down the face. Elevations in the project area range from 140 feet above Mean Sea Level (MSL) at the bluff edge to about 20 feet MSL along the southern margin of the project site.

The steep-faced valley wall situated below the project area is located along the inner edge of a broad, northward migrating meander of the Big and Little Salmon Rivers. This meander is positioned near the back edge of Whitesboro Cove. This bluff was analyzed by SHN to ensure the proposed structures would be set back a safe distance from this natural feature. SHN's report explains that if the long term average rate of retreat to the design life (75 years) is applied to the project site, about 4 feet of retreat would occur. However, given the site's proximity to the San Andreas Fault, there is a potential it will experience strong

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seismic shaking during the lifetime of the structure. Such shaking could lead to coseismic landsliding along slopes that have not yet experienced recent mass wasting. The earliest aerial photograph, taken in 1963, was nearly 60 years after the 1906 earthquake. Evidence of coseismic slope failure in the site vicinity from the 1906 event could not be discerned in the photographs. In order to assess an appropriate setback, SHN included geomorphic observations from their field assessment. A possible older scarp feature was observed south west of the proposed residence, and the head of a small gully (an erosion feature) exists immediately south of the project. Given the relatively low rates of erosion observed, and the proximity of the San Andreas Fault, SHN recommends a setback of 40 feet from both the potential scarp and bluff edge. The project has been designed to accommodate the recommended setback.

The SHN report makes additional recommendations for site preparations, foundations, drainage and erosion and grading. SHN also recommends that they monitor subgrade preparations, grading of structural fill and monitor foundation excavations. Staff recommends Special Condition Number 2, requiring that the recommendations in the geotechnical report prepared by SHN be incorporated into the design and construction of the proposed development. Prior to construction the final grading and building plans would be reviewed by SHN or another qualified geotechnical or civil engineer.

The property is in an area that has a "moderate" fire hazard severity rating as determined by the California Department of Forestry and Fire Prevention (Calfire). Calfire has submitted recommended conditions of approval (CDF# 315-08) for address standards, driveway standards, structural setbacks and defensible space standards. Standard Condition Number 4 is recommended to achieve compliance with Calfire fire safe standards.

It is the policy of the Coastal Commission and the County to require recordation of a deed restriction as a condition of development on blufftop parcels (usually ocean bluff parcels), prohibiting the construction of seawalls and requiring that permitted improvements be removed from the property if threatened by bluff retreat. This project was analyzed in a similar fashion to ocean front blufftop parcels even though the parcel sits above bluff which is not immediately adjacent to the ocean. The recommended restriction also requires that the landowner be responsible for any clean up associated with portions of the development that might fall onto the river or beach. Therefore, staff finds that a similar restriction is warranted in this situation and recommends the inclusion of Special Condition Number 3.

Visual Resources: The parcel is located in a designated "Highly Scenic Area" east of Highway 1 and the proposed project is subject to the following development criteria:

Coastal Element Policy 3.5-1 provides general guidelines for all development in the coastal zone, requiring that:

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 quality in visually degraded areas. New development in highly scenic areas designated by the County of Mendocino Coastal Element shall be subordinate to the character of its setting.

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Policy 3.5-3 of the Coastal Element states:

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

Sec. 20.504.015 (C) (3) of the Coastal Zoning Code states in part:

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.

Section 20.504.015(C) (6) of the MCCZC provides criteria to minimize visual impacts of development on hillsides (pertinent part):

(c) Designing structures to fit hillside sites rather than altering landform to accommodate buildings designed for level sites;

(d) Concentrate development near existing major vegetation, and

(e) Promote roof angles and exterior finish which blend with hillside.

The proposed development would be visible from Highway 1. Story poles for both of the proposed buildings have been erected on site to provide staff with a reference to assist in analyzing the potential visual resource impacts of the project. The building site is a relatively gently sloping open grassland which provides stunning views of the Little-Big Salmon Rivers mouth, bridge and ocean beyond. The building site is highly visible from Highway 1 south of the site. When a traveler is south of the Salmon River Bridge heading north, the proposed buildings will be highly visible. When a traveler is on the bridge travelling north the buildings will silhouette the skyline. The building site is more hidden from the north of the site as one travels south along the highway due to topography and natural vegetation.

Two buildings are proposed for the project. The westerly building would be a 2,524± square foot single family residence with a 634± square foot attached garage and 329± square feet of covered porches for a total size of 3,487± square feet. The proposed single story structure would have a maximum average height of 21 feet above natural grade. The building features a raised clear story window ridge above the residence portion of the building. The southwest elevation of the structure is approximately 55 feet long. The southeast elevation is approximately 70 feet long. The attached garage is tucked in behind the house from public view. East of the proposed house site, a detached accessory structure would be built which includes a 1,516± square foot garage/workshop, a 501± square foot guest cottage and 121± covered porch. The proposed accessory structure would have a maximum average height of 24 feet above natural grade and a total size of 2,138± square feet. This building also features a raised clear story window ridge. These raised ridge features do increase the overall height of the buildings but they also provide an interesting architectural design feature. The clear story windows also provide an alternative to roof skylights which tend to spill light and illuminate the night sky. The owner provided staff with many photographic examples of buildings on the coast which have a similar design in an effort to show that the design concept was common.

Staff was originally uncomfortable with the building heights considering these were single story buildings, however after conducting several site views it was evident that the buildings would be highly

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visible regardless of their maximum heights. Additionally, the building site is rather confined due to lot line setbacks, ESHA buffer areas, septic and well locations and the bluff setback. Considering the subject parcel is four acres, there are not a lot of options of where a residence and customary accessory structure could be built. Staff believes that shorter buildings would still be highly visible and would silhouette the skyline when viewed from the center of the Salmon Creek Bridge. If staff had found that shorter buildings would be less visible from the highway or be more protective of public views to or along the ocean, a reduction in building height may have been recommended but this was not the case. Furthermore, the maximum building height in designated highly scenic areas east of Highway 1 is 28 feet. The location of the accessory structure east (behind) the residence will help hide that building from the main public view of the project. Staff focused more on the proposed exterior materials, exterior lighting and the potential use of view screening landscaping to achieve compliance with visual resource policies of the LCP. Both buildings would use the same exterior material palettes.

Proposed exterior materials and colors are as follows:

	Material	Color
Siding	Redwood shingles	Clear finish
Trim	Redwood	Clear finish
Chimney	Brick	Red
Roofing	Fiberglass Comp. Shingle	Black or charcoal grey
Window Frames	Anodized aluminum	Bronze
	All exposed metal	Black/charcoal grey except copper

The proposed exterior colors are natural, dark and provide minimal contrast with each other and the surrounding environment. The development would blend with the surrounding environment. Reflective surfaces are minimized. Building materials and colors have been carefully selected to blend in hue and brightness with their surroundings. The lack of contrasting trim color also allows the structures to recede into the viewshed as opposed to standing out.

Section 20.504.15(C) (10) of the MCCZC states:

Tree planting to screen buildings shall be encouraged, however, new development shall not allow trees to interfere with coastal/ocean views from public areas.

Native tree and bush planting is being recommended as part of a landscape plan to help buffer the development from public views. The recommended planting would occur on the southwest side of the residence to break up the view of the proposed buildings.

Section 20.504.15(C) (13) of the MCCZC states:

Access roads and driveways shall be sited such that they cause minimum visual disturbance and shall not directly access Highway 1 where an alternate configuration is feasible.

The project will gain access directly off of Highway 1. No alternate configuration is available. As discussed in greater detail under the Transportation/Circulation section of the report, the access is a proposed upgrade to a historic ranch opening approximately 630 feet north of the proposed building site. An alternative encroachment scenario was originally proposed north of the existing opening which would have required significant grading (fill) and would have required a longer access driveway fronting the

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highway to the building site. The applicant was able to have Caltrans change their sight distance requirement to allow the use of the existing encroachment. The encroachment location change significantly reduced potential impacts to wetland (ESHA) but also reduced the visual impacts as well.

Section 20.504.035 of the Coastal Zoning Code (Exterior Lighting Regulations) states in pertinent part:

(A) Essential criteria for the development of night lighting for any purpose shall take into consideration the impact of light intrusion upon the sparsely developed region of the highly scenic coastal zone.

(2) Where possible, all lights, whether installed for security, safety, or landscape design purposes, shall be shielded or shall be positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the parcel on which it is placed.

(5) No lights shall be installed so that they distract motorists.

Exterior lighting is proposed to be custom made wooden boxes closed on all sides except the bottom. This exterior fixture would ensure they fully shielded and downcast. These lights are consistent with the intent of the exterior lighting regulations of the LCP.

In summary, staff recommends Special Condition Number 4 be added by the Coastal Permit Administrator to address all the visual resource issues raised in the staff report. The condition would include the requirement for a screening landscape plan, no changes to the proposed exterior building materials and colors and ensure that the proposed exterior lighting fixtures are used for the project. The inclusion of Special Condition Number 4 would make the project consistent with the visual protection policies of the LCP including those specific to designated Highly Scenic Areas east of Highway 1.

Grading, Erosion and Runoff: The agent has estimated very little grading would be required to construct the project. However, there is no information provided regarding erosion control measures associated with the development.

Regarding erosion control, Section 20.492.015 of the MCCZC states in pertinent part:

(A) The erosion rate shall not exceed the natural or existing level before development.

(B) Existing vegetation shall be maintained on the construction site to the maximum extent feasible. Trees shall be protected from damage by proper grading techniques.

(C) Areas of disturbed soil shall be reseeded and covered with vegetation as soon as possible after disturbance, but no less than one hundred (100) percent coverage in ninety (90) days after seeding; mulches may be used to cover ground areas temporarily.

Due to the presence of ESHA on site and the close proximity of the project to Salmon Creek, Special Condition Number 5 is recommended to require that an erosion control plan be submitted and approved that complies with the MCCZC prior to the issuance of the building permit.

Regarding stormwater runoff, Section 20.492.025 of the MCCZC states in pertinent part:

(A) Water flows in excess of natural flows resulting from project development shall be mitigated.

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(C) The acceptability of alternative methods of storm water retention shall be based on appropriate engineering studies. Control methods to regulate the rate of storm water discharge that may be acceptable include retention of water on level surfaces, the use of grass areas, underground storage, and oversized storm drains with restricted outlets or energy dissipaters.

(D) Retention facilities and drainage structures shall, where possible, use natural topography and natural vegetation. In other situations, planted trees and vegetation such as shrubs and permanent ground cover shall be maintained by the owner.

(E) Provisions shall be made to infiltrate and/or safely conduct surface water to storm drains or suitable watercourses and to prevent surface runoff from damaging faces of cut and fill slopes.

The proposed footprint of the residence and workshop is on a relatively flat knoll, above the bluff. The proposed development would increase the amount of impervious surfaces on this lot, therefore increasing post-construction runoff. Increases in impervious surfaces in a watershed, such as roofs and roads, increases surface runoff from a site creating the potential to cause erosion and degrade aquatic health. Development in any watershed can have incremental impacts on watershed health therefore, it is recommended that roof top runoff be directed as sheet flow to landscaped areas to slow the rate of runoff and increase infiltration. Native and drought tolerant plants are recommended for landscaped areas. The landscaped area that accepts roof runoff may be considered a rain garden. Rain gardens are a stormwater infiltration and treatment option that include a shallow landscaped depression with designed soil and plant palate that are adapted to the local climate and soil moisture conditions. A rain garden may act as a landscape amenity, while providing an environmental benefit of storing and infiltrating roof runoff, and increasing groundwater recharge. Special Condition Number 5 is recommended to reflect this suggestion.

Natural Resources: Botanical and biological consultants, William Maslach and Playalina Nelson have conducted a comprehensive botanical survey and ESHA assessment of the subject parcel. Mr. Maslach prepared an initial report dated November 2007 and a revised report dated February 2009. Ms. Nelson provided an addendum report which was submitted on June 1, 2009. The addendum, addressed the revised driveway encroachment location (which lessened project impacts) and a restatement of project impacts and recommended mitigation measures. The reports provide the required analysis of the resources and required protective buffers per Chapter 20.496 of the MCCZC.

The County of Mendocino Coastal Element describes an Environmentally Sensitive Habitat Area (ESHA) as follows:

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

Chapter 20.496 and Section 20.532.060, et. seq. of the MCCZC contain specific requirements for protection of ESHAs and development within the buffer area of an ESHA. A sufficient buffer area is required to be established and maintained to protect ESHAs from disturbances related to proposed development. Section 20.496.020(A)(1) of the MCCZC states:

The width of the buffer area shall be a minimum of one hundred (100) feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning staff, that one hundred (100) feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The

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buffer area shall be measured from the outside edge of the Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width.

Mr. Maslach summarized the site's vegetation as predominately non-native grassland composed of exotic grasses and herbs. Some northern coyote brush scrub occurs on the south-facing slope at the end of the parcel and a grand fir forest occurs on the eastern side of the parcel and has Douglas fir and grand fir as dominant trees. The site contains two special-status species, one special-status plant community, and a California Coastal Act wetland. Much of the wetland is caused by impoundment of subsurface water at the base of Highway 1 fill prism, causing an unnatural condition on site. Essentially, the existing alignment of Highway 1 bisects a wet meadow and the construction of the highway now impedes the natural subsurface flow of water, causing the water to collect and spread along the uphill side of the road prism. Mr. Maslach conducted his field survey for botanical and wetland resources on April 17, May 3 and June 20, 2005 and May 6, June 18 and July 7, 2007.

William Maslach's report documented approximately 75 individual Point Reyes checkerblooms (CNPS List 1B.2), approximately one acre of grand fir forest (G1/S1.1), and approximately one acre Coastal Act wetland. The checkerblooms will be provided with a minimum 100 foot buffer. They occur within the wetland adjacent to Highway 1, north of the proposed driveway encroachment area. The grand fir forest would have a 50 foot minimum buffer to the proposed workshop and septic disposal system. The grand fir forest area is located in the northern end of the project site.

The need for safe vehicular access to the subject parcel off the highway and identified wetland posed the greatest design challenge from a resource protection standpoint. The applicant was able to reduce project impacts by getting Caltrans to accept a driveway encroachment where the existing rocked ranch gate was already installed and to move the driveway to the eastern most edge of the easement to avoid the wetland. The relocation significantly reduced the potential negative impacts. Playalina Nelson stated the design change reduced impacts by 85% and allowed the encroachment to completely avoid the 100 foot rare plant setback. She stated that with the implantation of the proposed mitigation measures, the road construction would not have a significant impact on the wetland. A series of mitigation measures has been proposed by the consultants in order to reduce the impacts to a level below significant.

Ms. Nelson's report states:

Because of the project modifications, mitigation measures are reevaluated from the previous report and presented here. Little has changed in the analysis of the proposed project utilizing the ESHA development criteria in the Mendocino LCP Ordinance 20.496.020(A) through (4)(k) from the previous report other than a lessening of the wetland impact and avoiding the rare plant (Pt. Reyes checkerbloom) 100 foot buffer as mentioned above. The construction of the road would have a direct, minor impact on seasonal wetland habitat by crossing it with approximately 500 sq. ft. of crushed rock road, but the potentially significant loss is mitigated to a level that is less than significant. Mitigation measures have been provided to minimize adverse environmental effects. The construction of the road will be compatible with the continuance of the ESHAs by maintaining the functional capacity of the wetland and its ability to be self-sustaining, including maintaining natural species diversity. No significant change in topographic landforms is needed by constructing the road because the existing road is being utilized, and as a result there are no drainage modifications that would significantly alter the hydrology.

Impact 1: The proposed construction of the paved driveway approach and crushed rock road will result in crossing approximately 500 sq. ft. of Coastal Act wetland. Although an existing ranch

road and gate exist in the proposed location, a crushed rock road surface will be placed on the road to meet the California Fire Code requirements.

Mitigation Measure 1a: Enhance the quality of the disturbed wetland (approximately 500 sq. ft.) at the base of the Highway 1 berm. (This is a mitigation ration greater than 10:1.)

Exotic plant species: Himalaya blackberry (*Rubus discolor*), periwinkle (*Vinca major*), and watsonia iris (*Watsonia bulbifera*) will be removed over a 3 year period in the wetland at the base of the Highway 1 berm. A qualified botanist will submit a brief annual report to Mendocino County Planning and Building documenting the progress. Additionally, the entrance area along the road will be moved to promote the growth of native wetland forbs. All exotic plants can be removed from the location with shovels. It will be the botanist's job to document the extent of exotic plants annually after each removal effort, and to make sure the owner or the owner's employee knows how to identify the aforementioned weeds.

Mitigation Measure 1b: Use permeable surfaces for road surfaces.

To reduce the potential for concentrated water runoff from leaving the proposed develop sites, a semi-permeable surface such as crushed rock will be used in place of concrete or asphalt for the entrance road. However, it is necessary to pave the approach to the highway.

Mitigation Measure 1c: Install temporary fencing to ensure grading and/or material storage does not occur in the rare plant area or wetland.

Temporary fencing, such as orange plastic fencing or black silt cloth, will be placed on the outer edge of the road where it leaves the asphalt apron. This will ensure that equipment used in the construction of the road or extra piles of dirt do not intrude on the wetland.

Mitigation Measure 1d: Design the entrance road so that it is on the easternmost side of the access easement past the Highway 1 approach.

By making use of the easternmost side of the easement, a greater buffer is given to the seasonal wetland. The road will make use of the existing road that crosses the wetland and then it will avoid the wetland by paralleling it along the easement.

Potential Impact 2: The proposed development (house, workshop, and septic system) within the 50-100 foot buffer area from the grand fir forest ESHA may introduce levels of use not compatible with the long-term viability of the rare plants.

Mitigation Measure 2a: Planting of invasive landscaping plants will not occur.

Landscaping within the ESHA buffers will not include any of the invasive plants below that are commonly used in landscaping. They include the following species.

blue gum eucalyptus (*Eucalyptus globulus*)

jubatagrass or pampasgrass (*Cortaderia jubata* or *Cortaderia selloana*)

ivies: English ivy, Algerian ivy, or cape ivy (*Hedera canariensis*, *Delairea odorata* or *Hedera helix*)

periwinkle (*Vinca major*)

cotoneaster (*Cotoneaster lacteus* or *Cotoneaster pannosus*)

Brooms: Bridal broom, French broom, Portuguese broom, Scotch broom or Spanish broom (*Retama monosperma*, *Genista monspessulana*, *Cytisus striatus*, *Cytisus scoparius* or *Spartium junceum*)

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Special Condition Number 6 has been added requiring that the recommended mitigation measures become a mandatory part of the project.

Archaeological/Cultural Resources: The owner obtained an archaeological report. The report was prepared by Thad Van Bueren, dated March 26, 2005. No cultural, historical or archaeological sites were observed. The application and report was reviewed by the Mendocino County Archaeological Commission on February 11, 2009 and the report was accepted. Therefore, it is unlikely that any significant resources would be uncovered or destroyed as a result of the project. Nonetheless, Standard Condition Number 8 advises the applicant of the requirements of the County's Archaeological Ordinance, which establishes procedures to be followed in the event that archaeological or cultural materials are unearthed during site preparation or construction activities.

Groundwater Resources: The site is located within an area mapped as a Critical Water Resource Area (CWR). The development would be provided with sewage disposal by an on-site septic system. The system would be installed southeast of the proposed residence and the design has been approved by the County Division of Environmental Health. Domestic water would be provided from an on-site well located on the south side of the driveway and west of the proposed building site. The proposed project would have an incremental, but not significant, effect on groundwater resources.

Transportation/Circulation: Access to the project would be provided directly from Highway 1 at an existing ranch opening located approximately 630 feet north of the proposed building site. Minimal grading would be required to upgrade the existing ranch encroachment. As discussed above in the Natural Resources section of the report, the encroachment and driveway location have been revised and designed to achieve the required Caltrans sight distance requirements while providing maximum natural resources protection. The applicant already has secured an encroachment permit approval from Caltrans for the proposed encroachment onto Highway 1.

The project would contribute incrementally to traffic on local and regional roadways. The cumulative effects of traffic due to development on this site were considered when the Coastal Element land use designations were assigned.

Zoning Requirements: The project complies with the zoning requirements for the Range Land Zoning District set forth in Chapter 20.368 of the Coastal Zoning Code, and with all other zoning requirements of Division II of Title 20 of the Mendocino County Code.

PROJECT FINDINGS AND CONDITIONS: Pursuant to the provisions of Chapter 20.532 and Chapter 20.536 of the Mendocino County Code, staff recommends that the Coastal Permit Administrator approve the proposed project, and adopt the following findings and conditions.

FINDINGS:

1. The proposed development is in conformity with the certified Local Coastal Program; and
2. The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities; and

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3. The proposed development is consistent with the purpose and intent of the applicable zoning district, as well as all other provisions of Division II, and preserves the integrity of the zoning district; and
4. The proposed development, if constructed in compliance with the conditions of approval, will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act; and
5. The proposed development will not have any adverse impacts on any known archaeological or paleontological resource; and
6. Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development; and
7. The proposed use is compatible with the long-term protection of resource lands.

STANDARD CONDITIONS:

1. This action shall become final on the 11th day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the ten working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. The permit shall expire and become null and void at the expiration of two years after the effective date except where construction and use of the property in reliance on such permit has been initiated prior to its expiration.

To remain valid, progress towards completion of the project must be continuous. The applicant has sole responsibility for renewing this application before the expiration date. The County will not provide a notice prior to the expiration date.

2. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Division II of Title 20 of the Mendocino County Code.
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and that compliance therewith is mandatory, unless an amendment has been approved by the Coastal Permit Administrator.
4. This permit is subject to the securing of all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.
5. The applicant shall secure all required building permits for the proposed project as required by the Building Inspection Division of the Department of Planning and Building Services.
6. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:

- a. The permit was obtained or extended by fraud.

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- b. One or more of the conditions upon which the permit was granted have been violated.
 - c. The use for which the permit was granted is conducted so as to be detrimental to the public health, welfare or safety, or to be a nuisance.
 - d. A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more such conditions.
7. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
 8. If any archaeological sites or artifacts are discovered during site excavation or construction activities, the applicant shall cease and desist from all further excavation and disturbances within one hundred feet of the discovery, and make notification of the discovery to the Director of the Department of Planning and Building Services. The Director will coordinate further actions for the protection of the archaeological resources in accordance with Section 22.12.090 of the Mendocino County Code.

SPECIAL CONDITIONS:

1. The owner shall be permitted to occupy the proposed guest cottage as a residence before and during the construction of the proposed single family residence. Prior to final building inspection of the residence, the owner shall remove all permanent or temporary and portable cooking or preparation of food areas including wetbars and refrigerators. The owner shall obtain a building inspection of the guest cottage unit to verify the food areas have been removed. Once owner occupancy of the guest cottage has ceased, the use of the guest cottage shall remain consistent with the provisions of Section 20.308.050(G)(I) and 20.308.070(K)(B) of the Coastal Zoning Code, in that it shall not contain facilities, either permanent or temporary and portable, for the cooking or preparation of food, it shall not be used as an independent dwelling unit, and it shall only be used by the occupants of the primary dwelling on the property or their guests, without compensation.
2. The recommendations in the Geotechnical and Geologic Investigation report (dated June 2008) from SHN Consulting Engineers and Geologists, Inc., shall be incorporated into the design and construction of the proposed project. Prior to issuance of the building permit, the applicant shall submit evidence that a qualified geotechnical or civil engineer has reviewed the final grading and building plans. No development shall be permitted within 40 feet of the blufftop edge.
3. Prior to the issuance of the Coastal Development Permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Coastal Permit Administrator which shall provide that:

- a) The landowner understands that the site may be subject to extraordinary geologic and erosion hazards and the landowner assumes the risk from such hazards;
 - b) The landowner agrees to indemnify and hold harmless the County of Mendocino, its successors in interest, advisors, officers, agents and employees against any and all claims, demands, damages, costs, and expenses of liability (including without limitation attorneys' fees and costs of the suit) arising out of the design, construction, operation, maintenance, existence or failure of the permitted project. Including, without limitation, all claims made by any individual or entity or arising out of any work performed in connection with the permitted project;
 - c) The landowner agrees that any adverse impacts to the property caused by the permitted project shall be fully the responsibility of the applicant;
 - d) The landowner shall not construct any bluff or protective devices to protect the subject single-family residence, garage, septic system, or other improvements in the event that these structures are subject to damage, or other erosional hazards in the future;
 - e) The landowner shall remove the house and its foundation when bluff retreat reaches the point where the structure is threatened. In the event that portions of the house, garage, foundations, leach field, septic tank, or other improvements associated with the residence fall to the river or beach before they can be removed from the blufftop, the landowner shall remove all recoverable debris associated with these structures from the beach and ocean and lawfully dispose of the material in an approved disposal site. The landowners shall bear all costs associated with such removal;
 - f) The document shall run with the land, bind all successors and assigns, and shall be recorded free of all prior liens and encumbrances, except for tax liens.
4. Prior to issuance of the coastal permit, the applicant shall submit for the review and approval of the Coastal Permit Administrator a landscape plan to provide a visual screen of the development as viewed from Highway One, south of the site. The plan is intended to partially buffer the view of the project but is not expected to completely hide the project. The plan shall utilize native vegetation and provide tall enough vertical elements to provide the expected visual buffer. All required landscaping shall be installed prior to final clearance of the building permit for the residence, or occupancy of the residence, whichever occurs first. All required landscaping shall be irrigated, staked, maintained, and replaced, as necessary, to ensure that a vegetative screen is established and maintained in perpetuity. Any future vegetation removal on the site shall require prior authorization from the Planning Division or, if it constitutes "major vegetation removal," shall require a coastal development permit amendment.

Any change in submitted and approved exterior colors or materials shall be subject to the review and approval of the Coastal Permit Administrator for the life of the project.

STAFF REPORT FOR
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 57-2008(Marr & Malin)
June 25, 2009
CPA-16

All exterior lighting fixtures shall match those submitted with the permit application and shall be downcast and shielded. Any changes shall be subject to the review and approval by the Coastal Permit Administrator for the life of the project.

5. Prior to issuance of the building permit, an erosion control plan which addresses disturbed earth caused by construction activities, shall be submitted for approval by the Coastal Permit Administrator. All areas of disturbed soil shall be reseeded and covered with vegetation as soon as possible after disturbance, but no less than one hundred (100) percent coverage in ninety (90) days after seeding; mulches may be used to cover ground areas temporarily.

Roof top runoff should be conveyed as sheet flow to landscaped vegetation to encourage infiltration and groundwater recharge. The intent of this condition is to mitigate for the increased surface runoff that will occur from the increased impervious surfaces of the proposed structure.

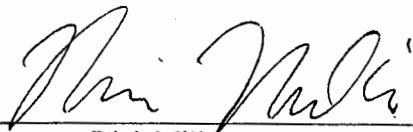
6. Mitigation measures provided in the biological report addendum received by the County on June 1, 2009, prepared by Playalina Nelson outlining mitigation measures for the project shall be mandatory requirements of the project (these measures are described in detail on page 11 of the staff report.)

It shall be the responsibility of the applicant to provide a copy of the mitigation measures outlined in this Coastal Development Permit as recommended by the consulting botanist, DFG, and planning staff, to any contractors, organizations, or volunteer groups engaged to perform work on the site in order that they are fully aware of the conditions of this permit and that all work performed is in compliance with all applicable mitigation measures and conditions.

Staff Report Prepared By:

6.12.09

Date

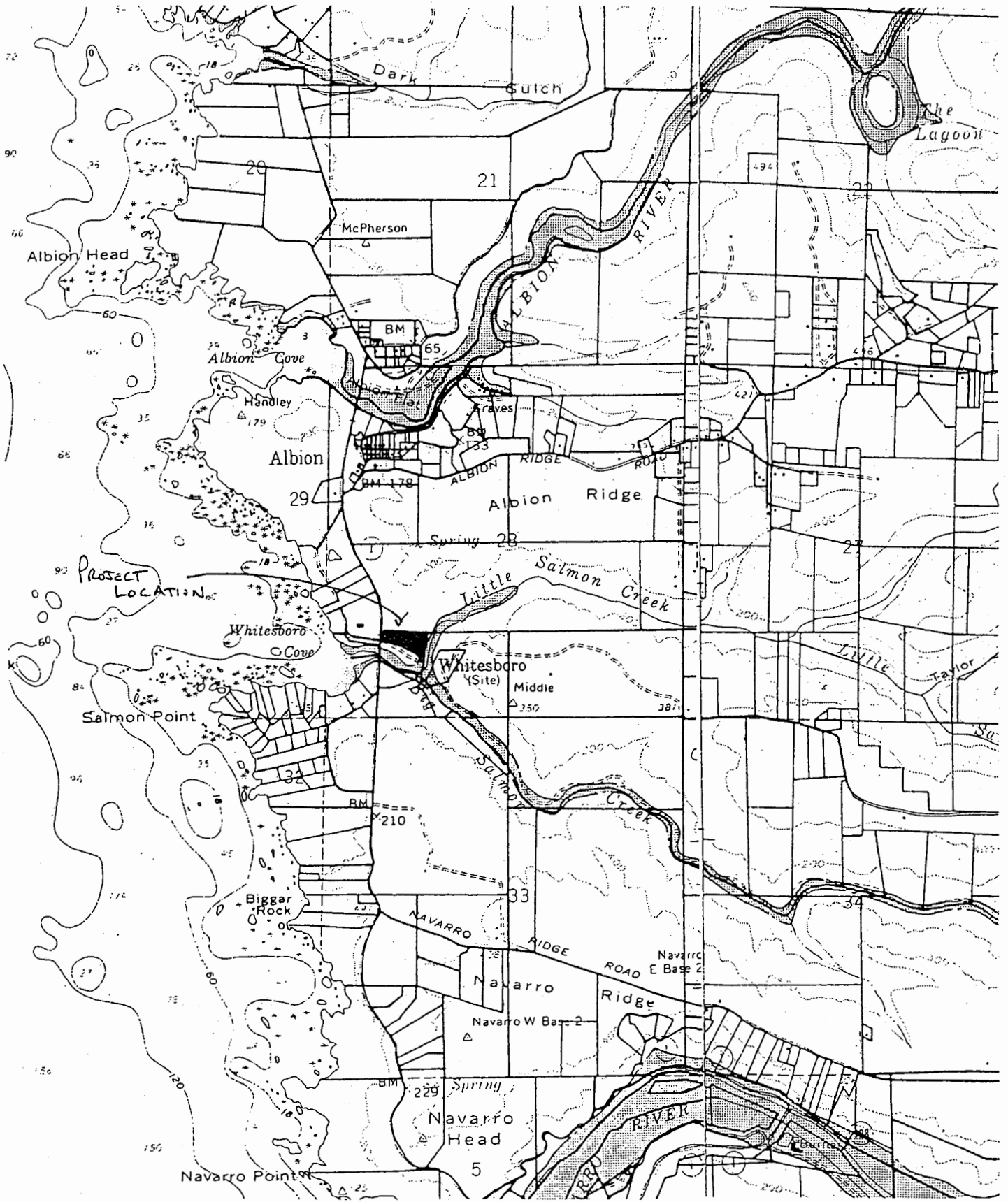


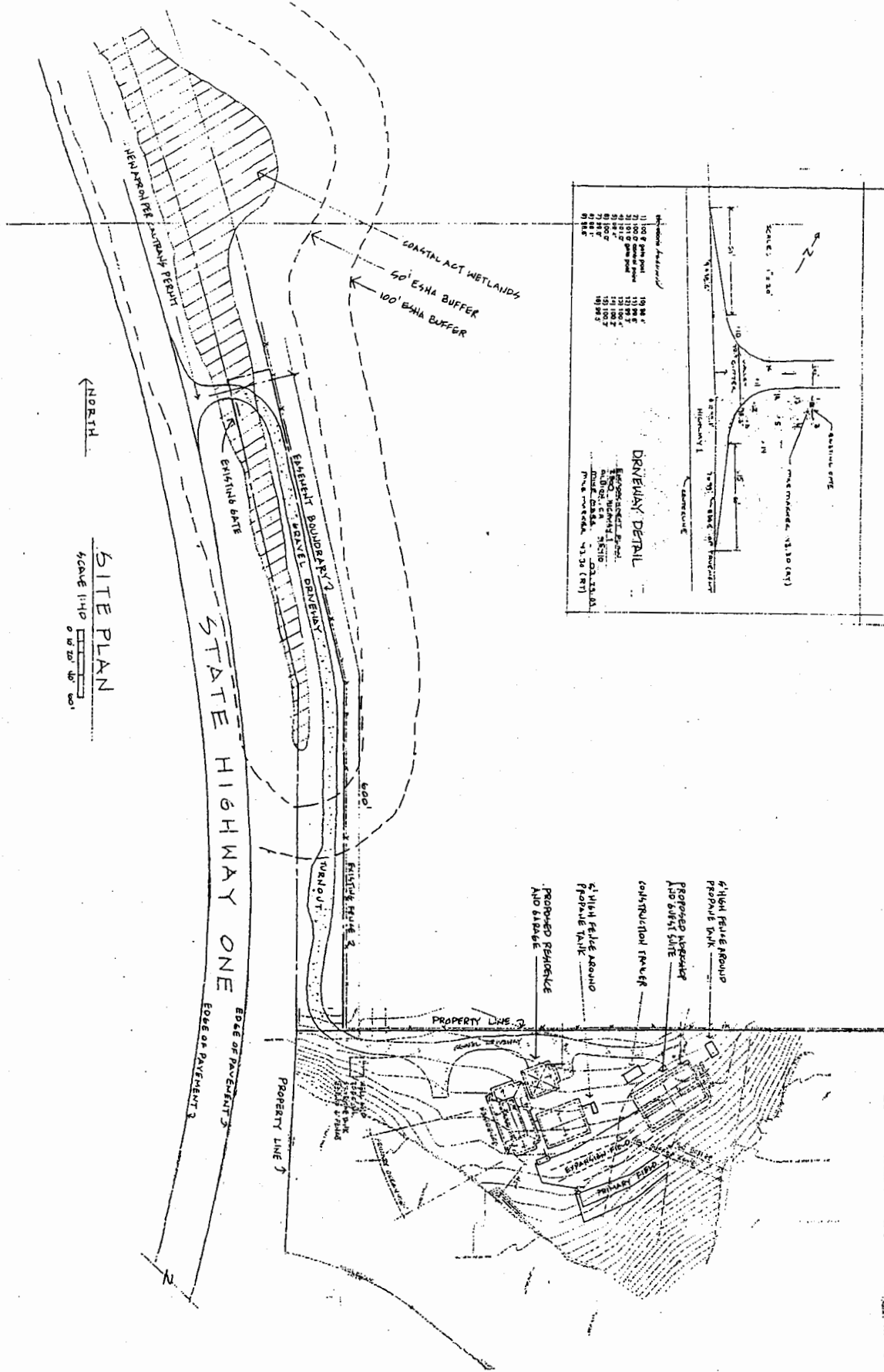
Rick Miller
Senior Planner

Attachments: Exhibit A: Location Map
Exhibit B: Site Plan
Exhibit C: ESHA Site Plan
Exhibit D: Residence Plans
Exhibit E: Workshop/Guest Cottage Plans
Exhibit F: Workshop Guest Cottage Plans with Kitchen
Exhibit G: Workshop Guest Cottage Plans without Kitchen

Appeal Period: Ten calendar days for the Mendocino County Board of Supervisors, followed by ten working days for the California Coastal Commission following the Commission's receipt of the Notice of Final Action from the County.

Appeal Fee: \$945.00 (For an appeal to the Mendocino County Board of Supervisors.)





SITE PLAN
 SCALE 1"=40'
 0 20' 40' 80'

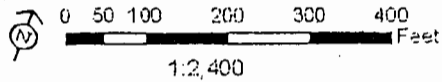
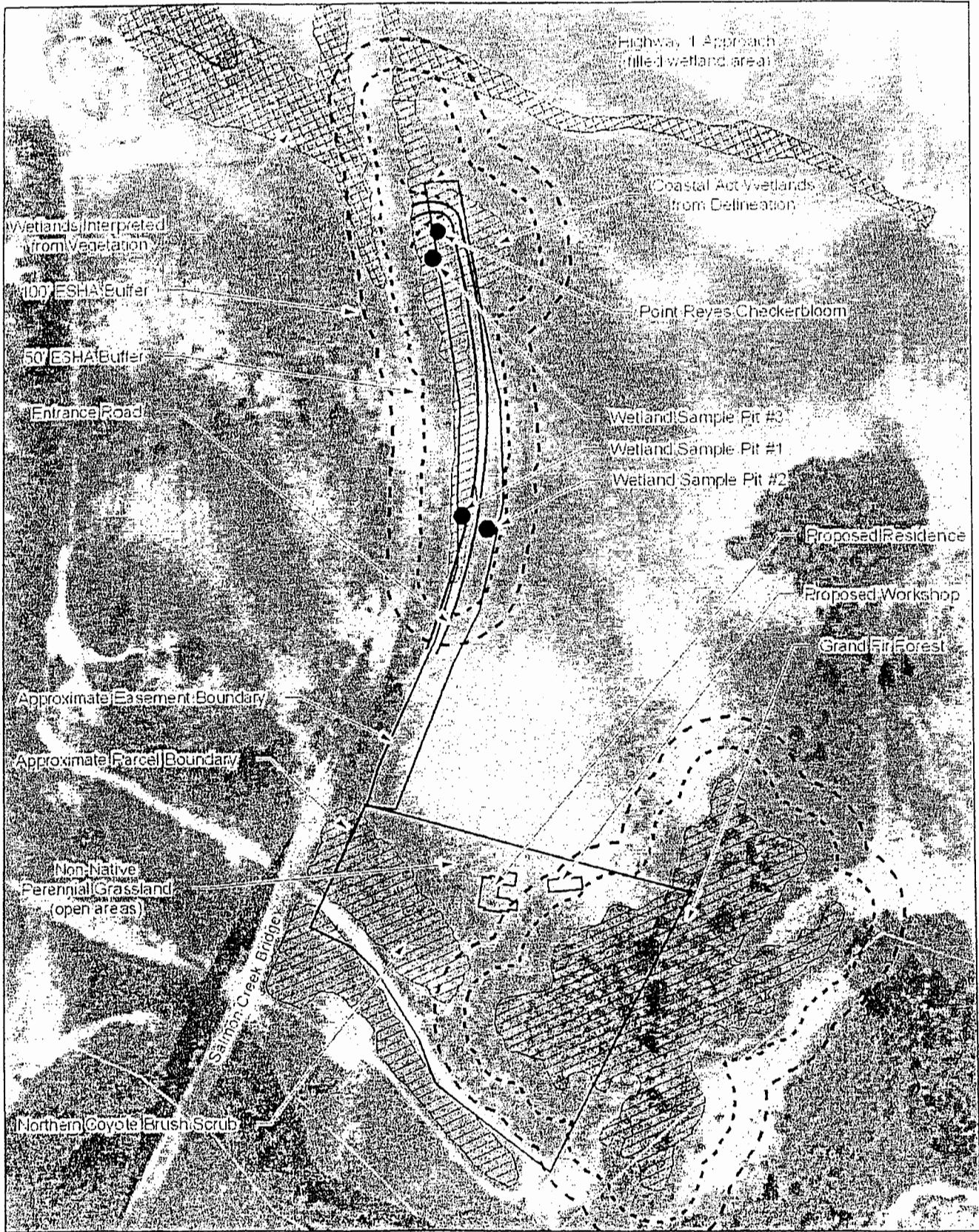
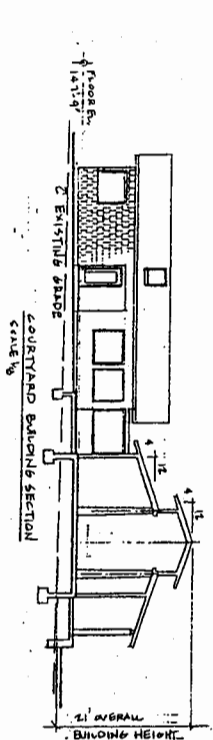
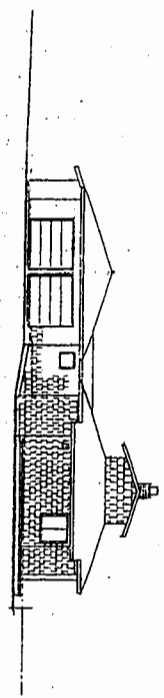


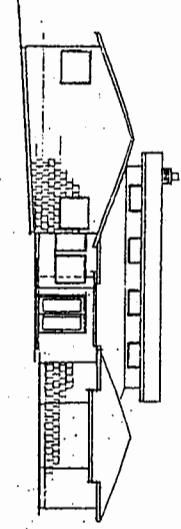
Figure 1. ESHA Map with Buffers. Wetland delineation pits are shown.



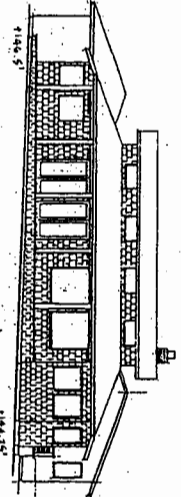
NORTHWEST ELEVATION



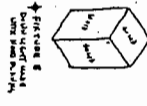
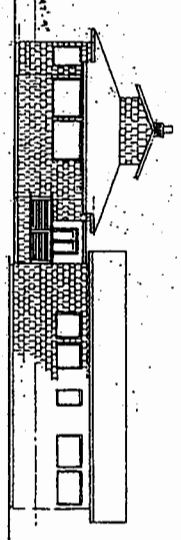
NORTHEAST ELEVATION



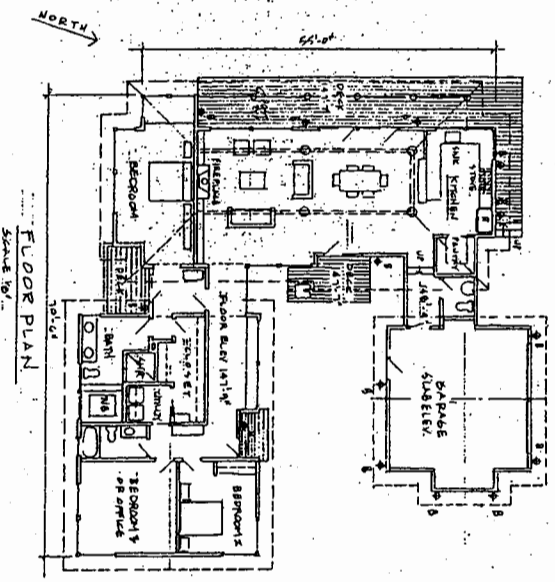
SOUTHWEST ELEVATION
 SCALE 1/8"



SOUTHEAST ELEVATION

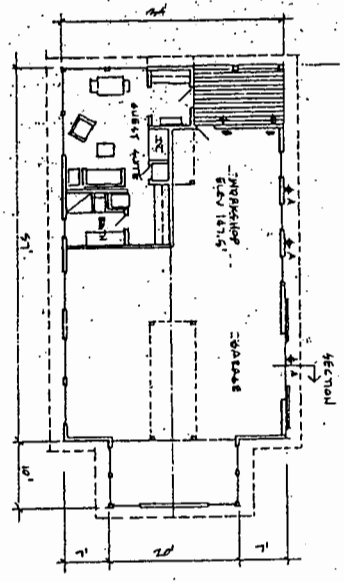
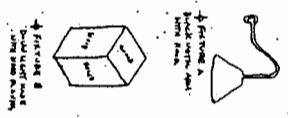
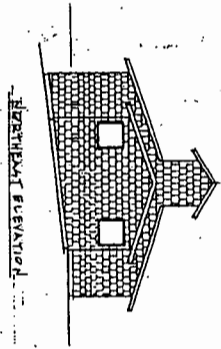
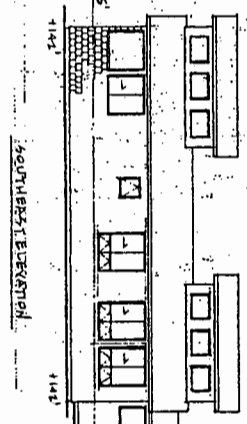
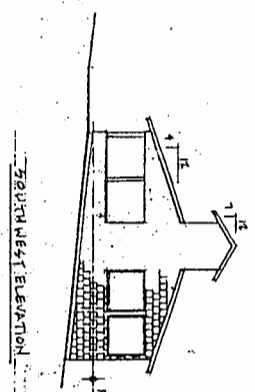
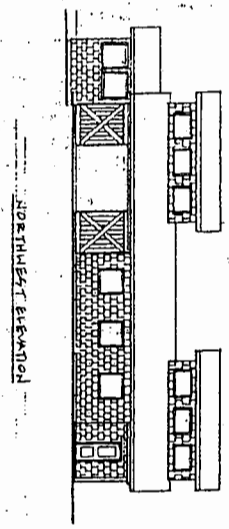
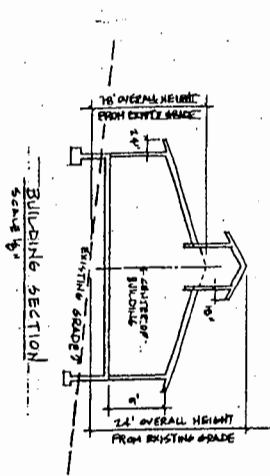


Front side & back side must never be used.



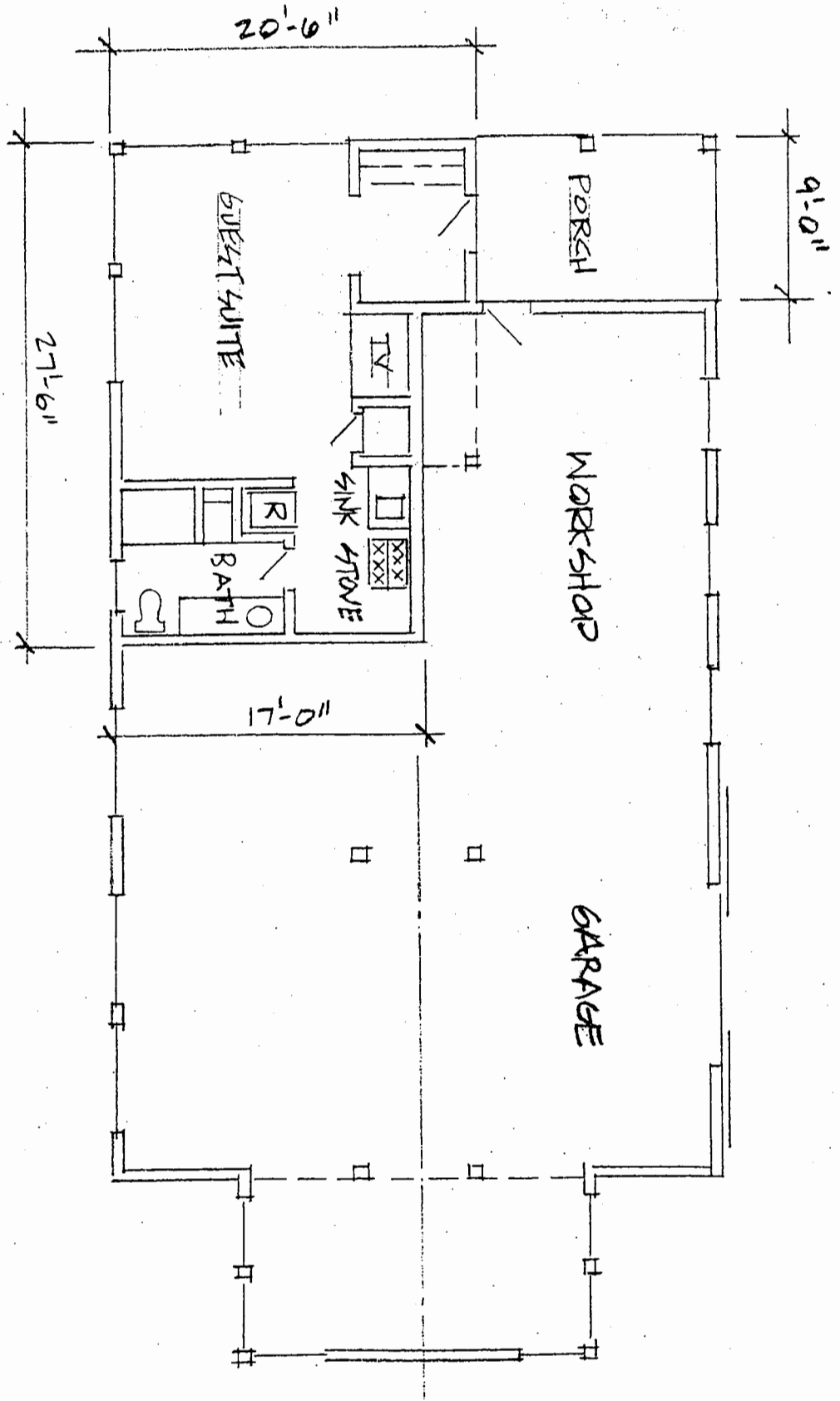
- MAIN RESIDENCE:**
 EXTERIOR BUILDING MATERIALS:
- 1) Siding shall be - horizontal aluminum with a stone finish.
 - 2) Roof Shingles shall be a Class 'A' Fiberglass Asphalt, color Black.
 - 3) Gutters shall be copper, 5 inch diameter aluminum with steel downspouts.
 - 4) All materials shall be painted black/charcoal gray, except masonry.

MAIN RESIDENCE:
 BUILDING SIZE:
 SQUARE FEET: 2,821 sq. ft.
 COVERED PORCHES: 178 sq. ft.



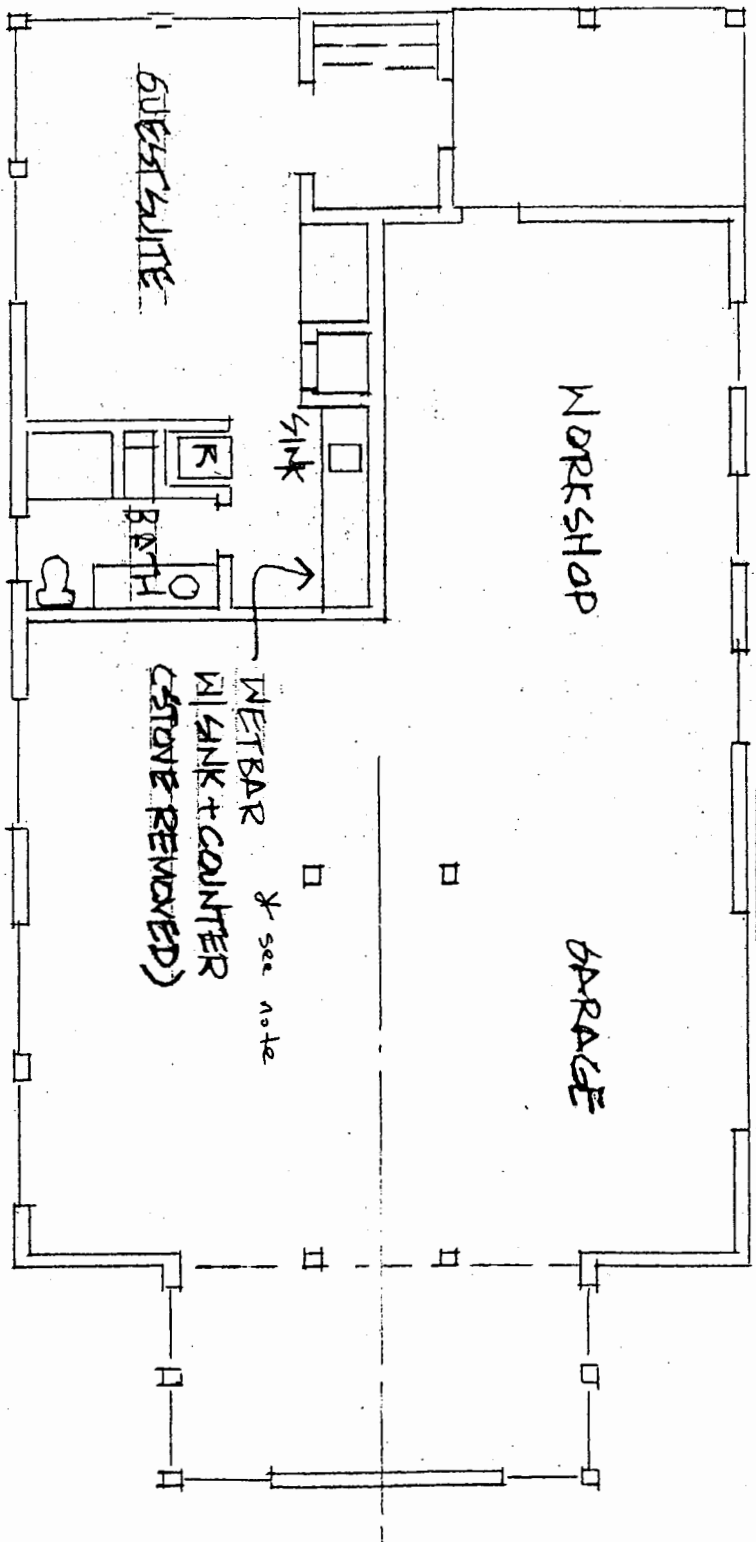
- BUILDING 2**
 GARAGE/WORKSHOP/GUEST SUITE
 EXTERIOR BUILDING MATERIALS:
- 1) Siding shall be medium density fiber board.
 - 2) Roof Shingles shall be Class 27 Fiberglass Asphalt/Flt Shingles.
 - 3) Windows shall be Single Paneled Aluminum with steel frames.
 - 4) All finish shall be painted hard/veneer ply, except topsoil.

BUILDING 2	
GARAGE/WORKSHOP/GUEST SUITE	
BUILDING SITE:	
WORKSHOP/GARAGE	1,818 sq.ft.
GUEST SUITE	603 sq.ft.
COVERED PORCH	221 sq.ft.
TOTAL:	2,642 sq.ft.



PLAN 'A' GARAGE/WORKSHOP/GUEST SUITE
W/ TEMPORARY KITCHEN 02-25-09

MARR/MALIN RESIDENCE
2800 HIGHWAY ONE



PLAN 'B' GARAGE/WORKSHOP/GUEST SUITE
W/ WET BAR
02-25-09

MARR/MALIN RESIDENCE
2800 HIGHWAY ONE

* Per Special Condition 1,
stiff recommends all food
pmp. and storage be removed.



COUNTY OF MENDOCINO
 DEPARTMENT OF PLANNING AND BUILDING SERVICES
 790 SOUTH FRANKLIN STREET · FORT BRAGG · CALIFORNIA · 95437

RAYMOND HALL, DIRECTOR
 Telephone 707-964-5379
 FAX 707-961-2427
 www.co.mendocino.ca.us/planning

RECEIVED

DEC 01 2008

CALIFORNIA
 COASTAL COMMISSION

November 26, 2008

Planning-Ukiah
 Environmental Health
 Building Inspection (FB)
 Assessor

Arch Commission
 Caltrans
 US Fish & Wildlife Service
 Dept of Fish & Game

Coastal Commission
 Albion-Little River Fire District

*CASE#: CDP #57-2008
 OWNER: Michael Marr & Judith Malin
 AGENT: Bob Hartstock
 REQUEST: Construct a 2,524+- square foot single-family residence with a 634+- square foot attached garage and approximately 330 square feet of covered porches for a total size of 3,437 square feet. The proposed single-story residence is to have a maximum average height of 21 feet above grade. Construct a detached accessory structure, which includes a 1,516+- square foot garage/workshop, 501 square foot guest cottage and 121 square foot covered porch. The structure is to have a maximum average height of 24 feet above grade and a total size if 2,138 square feet. Associated development includes: creation of a new driveway encroachment on to Highway One, a septic disposal system, water well, driveway, water storage tank.

APPEALABLE AREA: Yes
 LOCATION: In the coastal zone, approximately 1/2 mile S of Albion and immediately N of Salmon Creek, on the E side of Highway One at 2800 N. Highway One, Albion (APN 123-350-06).

*PROJECT COORDINATOR: Rick Miller
 RESPONSE DUE DATE: December 11, 2008

***PLEASE NOTE THE CASE NUMBER AND NAME OF PROJECT COORDINATOR WITH ALL CORRESPONDENCE TO THIS DEPARTMENT.**

Attached to this form is information describing the above noted project(s). The County Department of Planning and Building Services is soliciting your input, which will be used in staff analysis. If we do not receive a response within fifteen (15) days, we will assume no response is forthcoming.

You are invited to comment on any aspect of the proposed project(s). Please address any concerns or recommendations on environmental considerations and specific information regarding permits you may require to the project coordinator at the above address.

REVIEWED BY: Name _____ Department _____ Date _____

_____ No Comment _____ Comment to follow

_____ Comments attached or Below

L-101-08-00-267

COASTAL DEVELOPMENT PERMIT REVIEW SHEET

STANDARD ADMINISTRATIVE MODIFICATION
 USE PERMIT VARIANCE _____
 APPEALABLE AREA: YES NO U.S.A.

CDP # 57-2008
 DATE FILED: 10.6.08
 GOV'T CODE DATE: _____

OWNER: Michael Merr + Judith Malin

APPLICANT: Bob Hartstock

AGENT: Bob Hartstock

REQUEST: Construct a 2,524± sq. ft. single family residence w/ a 634± sq. ft. attached garage and approx. 330 sq. ft. of covered porches. Proposed ^{total size of 3,488 sq. ft.} main residence to have a new avg. height of 21 ft. above grade. Construct a detached accessory structure which includes 1,516± sq. ft. garage/workshop, 501 sq. ft. guest cottage, and 121 sq. ft. covered porch. Structure to have max. avg. height of 24 ft. above grade and total size of 2,138 sq. ft. *

LOCATION: In the coastal zone, approx. 1/2 mile S of Albion + immediately N of Salmon Creek, on the E side of Hwy 1 at 2800 N Highway One (APN: 123-350-06).

STREET ADDRESS: 2800 N. Highway One APN: 123-350-06

GENERAL PLAN: RL 160 ZONING: RL 160 PARCEL SIZE: 16± SF (AD)

EXISTING USES: Vacant SUPERVISORIAL DISTRICT: 5

RELATED CASES: COB 76-2004, ST 25095 (septic)

PERMITS ON HOLD PENDING CDP: _____

REFERRAL AGENCIES:

- | | |
|---------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> Environmental Health | <input type="checkbox"/> Air Quality Management District |
| <input checked="" type="checkbox"/> Building Inspection | <input type="checkbox"/> RWQCB |
| <input checked="" type="checkbox"/> Assessor | <input type="checkbox"/> MHRB |
| <input checked="" type="checkbox"/> Coastal Commission | <input type="checkbox"/> GMAC |
| <input type="checkbox"/> Sonoma State/CHRIS | <input type="checkbox"/> _____ Sewer District |
| <input type="checkbox"/> DOT | <input type="checkbox"/> _____ Water District |
| <input checked="" type="checkbox"/> Caltrans | <input checked="" type="checkbox"/> <u>Albion</u> Fire District |
| <input type="checkbox"/> Dept. of Parks and Recreation | <input type="checkbox"/> _____ Community Services District |
| <input checked="" type="checkbox"/> Dept. of Fish and Game - <i>save referral for hand delivery w/ report</i> | <input type="checkbox"/> _____ City Planning Department |
| <input type="checkbox"/> Native Plant Society | <input type="checkbox"/> _____ School District |
| <input checked="" type="checkbox"/> US Fish and Wildlife Service - <i>send copy of botanical report</i> | <input checked="" type="checkbox"/> <u>Arch. Comm. - include report</u> |
| <input type="checkbox"/> Army Corps of Engineers | <input checked="" type="checkbox"/> <u>Ulman PBS (info from COB 76-04)</u> |
| <input type="checkbox"/> County Water Agency | <input type="checkbox"/> _____ |

PROJECT COORDINATOR: Rick Nelli PREPARED BY: RH DATE: 11.24.08

ENVIRONMENTAL DATA

- | YES | NO | |
|-------------------------------------|-------------------------------------|-----------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 1. CDP Exemption or CDP Exclusion |
| <input type="checkbox"/> | <input type="checkbox"/> | 2. LUP Map Number <u>18</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 3. Blufftop Parcel |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 4. Highly Scenic Area: <u>East</u> or West of Hwy 1 |
| <input type="checkbox"/> | <input type="checkbox"/> | 5. Adjacent to State Forest/Park/Recreation Area |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 6. Within/Adjacent to Agriculture Preserve or TPZ |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 7. Within Mendocino Historical Preservation District: Zone A or B |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 8. Alquist-Priolo Earthquake Fault Zone (from Manchester to Gualala) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 9. Floodplain/Floodway |
| <input type="checkbox"/> | <input type="checkbox"/> | 10. Natural Diversity Data Base #s <u>see report</u> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 11. ESHA - <u>Riparian</u> , <u>Wetland</u> , Rare <u>Plants</u> , Sand Dunes,
Pygmy Vegetation and/or Soils |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 12. Building Envelopes/Buffer Zones <u>see report + geology</u> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 13. Geotechnical Hazards: Coastal Bluff, <u>> 20%</u> Slopes <u>see report</u> |
| | | 14. Coastal Groundwater Zone: SWR MWR <u>CWR</u> CWRbr |
| | | 15. Fire Hazard Classification: CDF Exempt or CDF# <u>315-28</u>
<u>Moderate</u> High Very High |

EQA Status: _____

ADDITIONAL INFORMATION:

COUNTY OF MENDOCINO
DEPT OF PLANNING & BUILDING SERVICES
790 SOUTH FRANKLIN STREET
FORT BRAGG, CA 95437
Telephone: 707-964-5379

Case No(s) 57-2008
CDF No(s) _____
Date-Filed _____
Fee _____
Receipt No. _____
Received by _____
Office Use Only

COASTAL DEVELOPMENT PERMIT APPLICATION FORM

Name of Applicant <u>BOB HARTSTOCK</u>	Name of Owner(s) <u>MICHAEL MARR JUDITH MALIN</u>	Name of Agent <u>BOB HARTSTOCK</u>
Residing Address <u>P.O. BOX 319 THE SEA RANCH, CA 95497</u>	Mailing Address <u>43 HILLSIDE AVE. PORTSMOUTH, RI 02871</u>	Mailing Address <u>P.O. BOX 319 THE SEA RANCH, CA 95497</u>
Telephone Number <u>707-785-2036</u>	Telephone Number <u>401-683-9362</u>	Telephone Number <u>707-785-2036</u>

Project Description:
CONSTRUCT SINGLE FAMILY DWELLING W/ ATTACHED
GARAGE AND DETACHED BUILDING FOR WORKSHOP
AND GUEST SUITE

Living Directions
The site is located on the E (N/S/E/W) side of HIGHWAY ONE (name road)
approximately 1/2 (feet/miles) W (N/S/E/W) of its intersection with
ALBION RIDGE ROAD (provide nearest major intersection).

Assessor's Parcel Number(s)
123-350-00

Parcel Size <u>4</u> <input type="checkbox"/> Square Feet <input checked="" type="checkbox"/> Acres	Street Address of Project <u>2800 HIGHWAY ONE ALBION, CA 95410</u> Please note: Before submittal, please verify correct street address with the Planning Division in Ukiah.	33 of 40
--------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------

COASTAL DEVELOPMENT PERMIT APPLICATION QUESTIONNAIRE

The purpose of this questionnaire is to relate information concerning your application to the Planning & Building Services Department and other agencies who will be reviewing your project proposal. The more detail that is provided, the easier it will be to promptly process your application. Please answer all questions. Those questions which do not pertain to your project, please indicate "Not Applicable" or "N/A".

1. Describe your project and include secondary improvements such as wells, septic systems, grading, vegetation removal, roads, driveways, propane tanks, oil tanks, water storage tanks, solar panels, etc.

Construct single family dwelling with attached garage and second detached building for a workshop and guest suite. Improvements will also include a septic system, well, driveway, water storage tank, minor grading and moving an existing driveway entrance off highway one per Cal trans requirements.

2. If the project is residential, please complete the following:

TYPE OF UNIT	NUMBER OF STRUCTURES/UNITS	EXISTING SQ. FEET PER STRUCTURE	PROPOSED SQ. FEET PER STRUCTURE	TOTAL SQ. FEET PER STRUCTURE
<input checked="" type="checkbox"/> Single Family	1		3487	3487
<input type="checkbox"/> Mobile Home				
<input type="checkbox"/> Duplex/Multifamily				
<input checked="" type="checkbox"/> Detached Structures (List individually)	1		2138	2138

3. Are there existing structures on the property? Yes No
If yes, describe below and identify the use of each structure on the site plan.

4. Utilities will be supplied to the site as follows:

- A. Electricity
 Utility Company (service exists to the parcel).
 Utility Company (requires extension of services to site: 100 feet _____ miles)
 On Site generation, Specify: _____
 None
- B. Gas
 Utility Company/Tank
 None
- C. Telephone: Yes No

5. Will there be any new exterior lighting? Yes No
If yes, provide lighting details and specifications for all exterior lighting fixtures. Please ensure that all fixtures are downcast and shielded. Identify the location of all exterior lighting on the site plan and building plans.

6. What will be the method of sewage disposal?

- Community sewage system, specify supplier _____
 Septic Tank (indicate primary + replacement leachfields on plot plan)
 Other, specify _____

7. What will be the domestic water source?

- Community water system, specify supplier _____
 Well On-site Off-site
 Spring On-site Off-site
 Other, specify _____

8. Is any grading or road/driveway construction planned? Yes No

Estimate the amount of grading in cubic yards: 10 c.y. **If greater than 50 cubic yards or if greater than 2 feet of cut or 1 foot of fill will result, please provide a grading plan.**

Estimate the length of the proposed road/driveway: 1180 feet.

Describe the terrain to be traversed (e.g., steep, moderate slope, flat, etc.).

FLAT

9. Will vegetation be removed on areas other than the building sites and roads? Yes No
If yes, explain:

How many trees will be removed to implement the project: 0. Indicate on the site plan all trees to be removed which are greater than 12-inches in diameter (measured four feet from the ground). If applicable, please indicate on the site plan the size, location and species of all on-site trees that provide screening from public view areas.

10. Will the proposed development be visible from:

- A. State Highway 1? Yes No
B. Park, beach, or recreation area? Yes No

If you answered yes to either question, explain.

PROPERTY FRONTS HIGHWAY 1

11. Project Height. Maximum height of structure(s): _____ feet
HOUSE IS 21', BUILDING 2 IS 24' AT MAXIMUM HEIGHT.

12. Describe all exterior materials and colors of all proposed structures.

Siding material	<u>REDWOOD</u>	Color	<u>NATURAL</u>
Trim material	<u>REDWOOD</u>	Color	<u>NATURAL</u>
Chimney material	<u>BRICK</u>	Color	<u>RED</u>
Roofing material	<u>CLASS A COMPOSITION</u>	Color	<u>BLACK/GREY</u>
Window frame material	<u>BRONZE ANODIZED ALUM</u>	Color	<u>BRONZE</u>
Door material	<u>" "</u>	Color	<u>"</u>
Fencing material	<u>CEDAR</u>	Color	<u>NATURAL</u>
Retaining walls material	<u>-</u>	Color	<u>_____</u>
Other exterior materials	<u>-</u>	Color	<u>_____</u>

13. Are there any water courses, anadromous fish streams, sand dunes, rookeries, marine mammal haul-out areas, wetlands, riparian areas, pygmy vegetation, rare or endangered plants, animals or habitat which support rare and endangered species located on the project site or within 100 feet of the project site?

YES, SEASONAL WETLANDS EXIST IN DRIVEWAY EASEMENT RESULTING FROM HIGHWAY ONE BISECTING AND MODIFYING THE SUBSURFACE FLOW.

14. If the project is commercial, industrial, or institutional, complete the following:

Total square footage of all structures: _____
Estimated employees per shift: _____
Estimated shifts per day: _____
Type of loading facilities proposed: _____

Will the proposed project be phased? Yes No

If Yes, explain your plans for phasing.

Parking will be provided as follows:

Number of Spaces Existing: _____ Proposed: _____ Total: _____

Number of standard spaces: _____ Size: _____

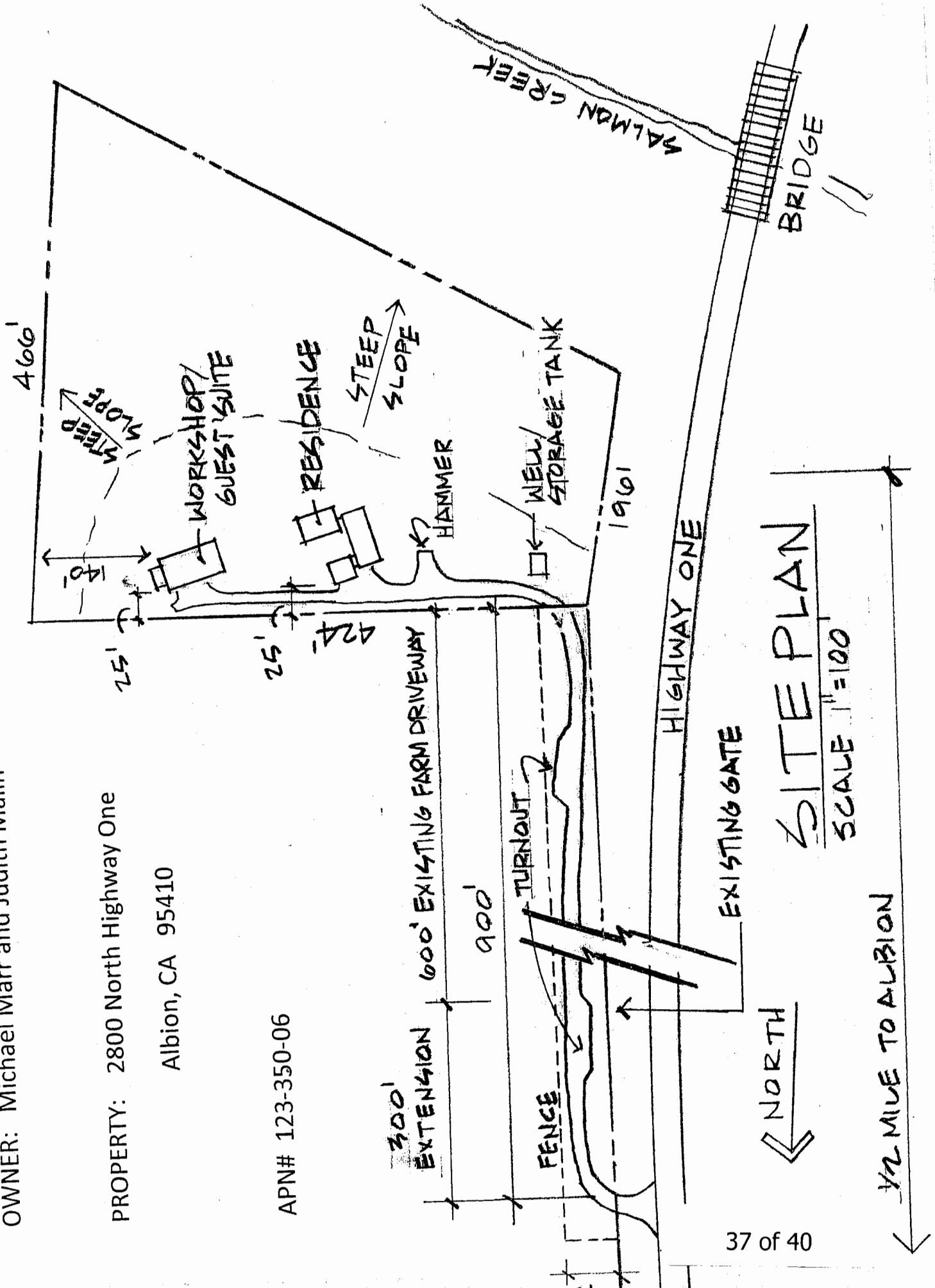
Number of handicapped spaces: _____ Size: _____

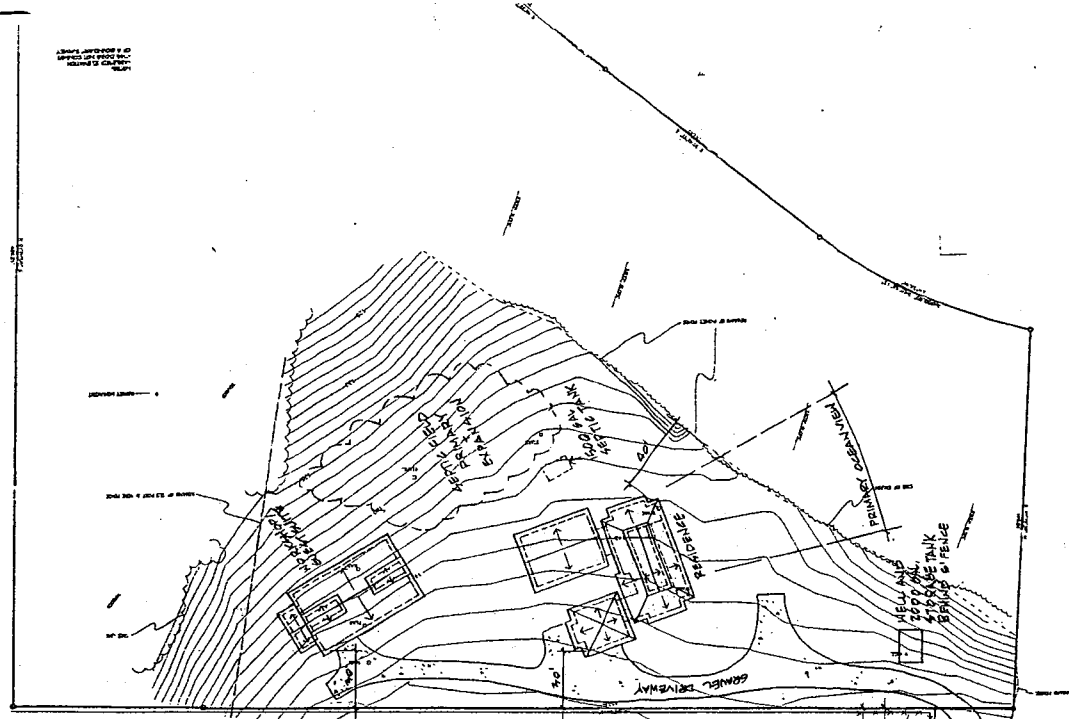
OWNER: Michael Marr and Judith Malin

PROPERTY: 2800 North Highway One

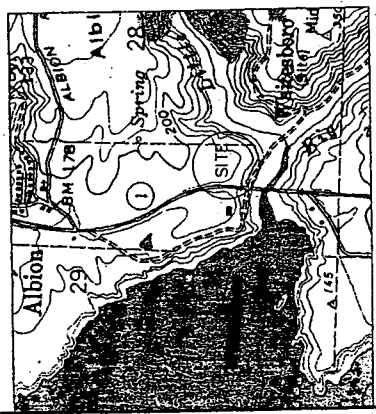
Albion, CA 95410

APN# 123-350-06



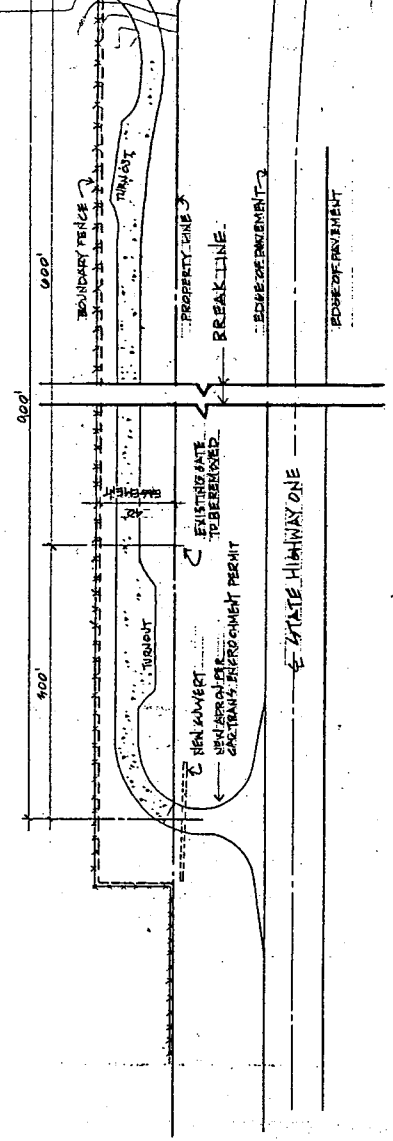


NORTH

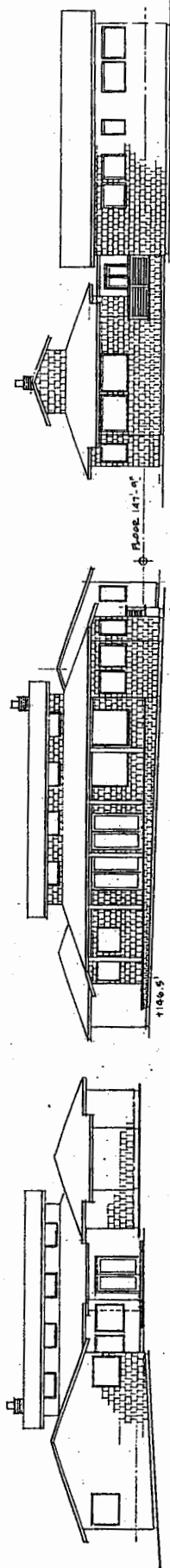


VICINITY MAP NO SCALE

SITE PLAN
 SCALE: 1" = 30'



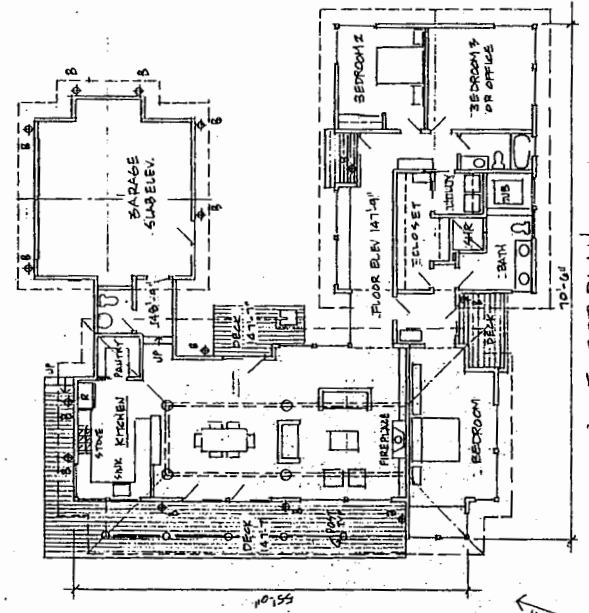
STRUCTURAL ENGINEER: SUMMIT ENGINEERING, INC. 463 Avallon Blvd, Suite 200 Santa Rosa, CA 95403 707-527-0775 / 707-527-0212 FAX	BUILDING DESIGNER: BOB HARTSTOCK PO BOX 319 36455 TIMBER RIDGE ROAD THE SEA RANCH, CA 95497 phone 707.785.2036 fax 707.785.2125	A NEW RESIDENCE FOR: MICHAEL MARR AND JUDITH MALIN 2800 North Highway One Alhambra, CA 95410
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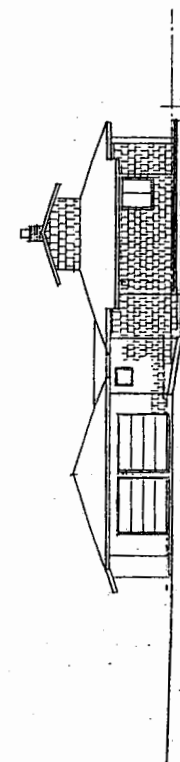
SOUTHEAST ELEVATION
SCALE 1/8"

SOUTHWEST ELEVATION
SCALE 1/8"

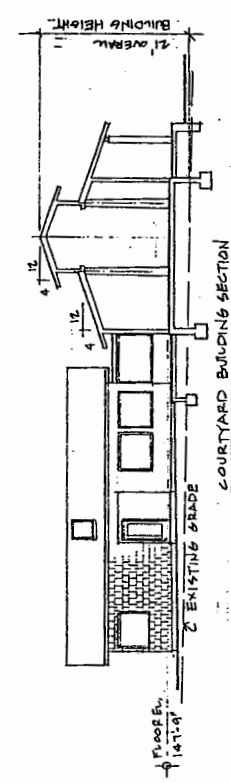
NORTHEAST ELEVATION
SCALE 1/8"



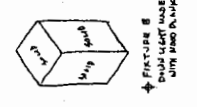
FLOOR PLAN
SCALE 1/8"



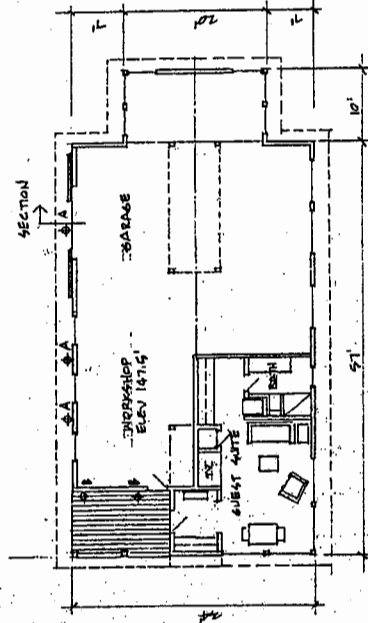
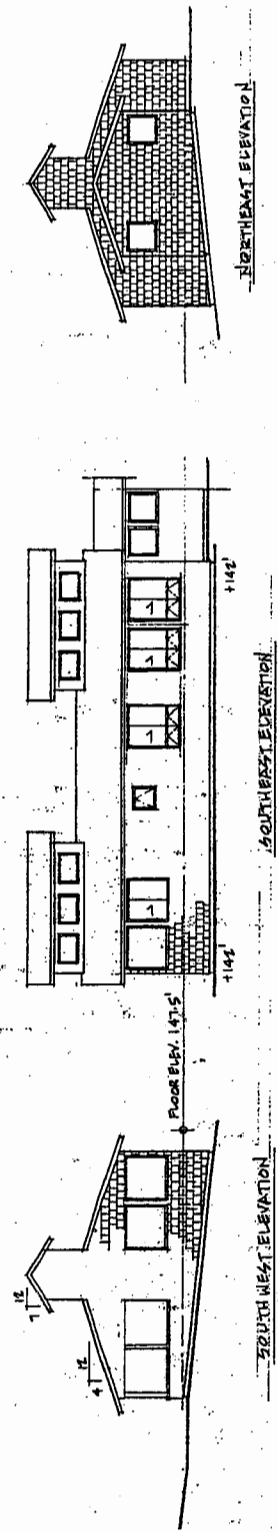
NORTHWEST ELEVATION



COURTYARD BUILDING SECTION
SCALE 1/8"



- MAIN RESIDENCE:**
- 1) Ridge shall be reduced shingles with a cedar finish.
 - 2) Roof Shingles shall be a Class A Fiberglas shingle, color black or charcoal gray.
 - 3) Windows shall be Milgard, Bronze Anodized Aluminum with clear glass.
 - 4) All metal shall be painted black/charcoal gray, except copper.
- EXTERIOR BUILDING MATERIALS:**
- MAIN RESIDENCE:**
- BUILDING SIZE:**
- HOUSE 2,224 sq.ft.
 GARAGE 1,100 sq.ft.
 COVERED PORCHES: 323 sq.ft.

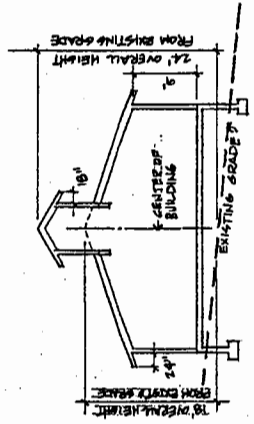
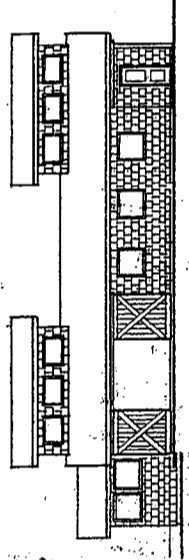
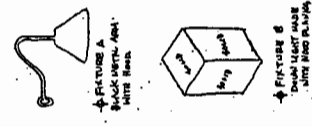


GARAGE/WORKSHOP/ GUEST SUITE FLOOR PLAN
 SCALE 1/8" = 1'-0"

BUILDING 2

GARAGE/WORKSHOP/GUEST SUITE	BUILDING SIZE:
WORKSHOP/GARAGE:	1,819 sq.ft.
GUEST SUITE:	602 sq.ft.
COVERED PORCH:	322 sq.ft.
TOTAL:	2,743 sq.ft.

- BUILDING 2**
- GARAGE/WORKSHOP/GUEST SUITE**
EXTERIOR BUILDING MATERIALS
- Siding shall be redwood shingles with a clear finish.
 - Roof Shingles shall be a Class "A" Fiberglass shingle, color black or charcoal grey.
 - Windows shall be bright, bronze Anodized Aluminum with clear glass.
 - All metal shall be painted black/charcoal grey, except copper.



BOB HARTSTOCK DESIGNER

post office box 319
the sea ranch
california 95497
707.785.2036 Tel
707.785.2125 FAX

bobhart@mcn.org

Ship To:
36455 timber ridge road
the sea ranch
california 95497

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AUG 18 2009

CALIFORNIA
COASTAL COMMISSION

TRANSMITTAL

TO: Robert Merrill, District Manager

DATE: 17 August 2009

COMPANY: CALIFORNIA COASTAL COMMISSION
North Coast District Office
710 E Street, Suite 200
Eureka, CA 95501

PROJECT: CDP #57-2008
Michael Marr & Judith Malin
Commission Appeal No. A-1-MEN-09-034

MESSAGE:

Dear Mr. Merrill:

Thank you for your time last week when we discussed the appeal on our project and the next steps. Since that conversation Mike, Judith and I reviewed the reasons for the appeal and the LCP and the CP. We strongly believe the appeal alters the facts and misinterprets the codes. Consequently we drafted a rebuttal addressing each item. We have enclosed this for your review.

We hope to keep to the process moving and will be prepared to attend the September meeting if necessary. Please keep us informed and thank you for your time.

Sincerely,
BOB HARTSTOCK, Signature on File
Building Designer/Applicant
encl: Appeal, letter, photos, COC
cc: Marr/Malin, Rick Miller

EXHIBIT NO. 9

APPEAL NO.

A-1-MEN-09-034

MARR & MALIN

APPLICANTS'

CORRESPONDENCE (1 of 30)

CDP #57-2008

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AUG 18 2009

CALIFORNIA
COASTAL COMMISSION

Applicant: Michael Marr & Judith Malin
2800 Highway One, Albion, CA
APN: 123-350-06

Commission Appeal No. A-1-MEN-09-034 R. Wehren, M. Hayes

Rebuttal to Appeal:

Item #1: 3.1-2 & 3.1-7

a) This project uses an existing farm road as driveway access to the property. It is the only feasible access to the property. Caltrans supports this entry and has permitted use of the existing apron off highway one for access. The driveway crosses 500 sq.ft. of the ESHA and continues through the 100' Buffer. With mitigating measures, the road construction will not have any significant impact to the wetland. See the Botanical report by Bill Maslach and the follow up report by Playalina Nelson, Consulting Botanist.

Item #2: 3.5-1, 3.5-2, & 3.5-3

a) The Site is permitted development and located east of highway one and north of Salmon Creek. No development on the property would block ocean or coastal views from public areas. It should be noted that the building site is only visible from Highway One/ south of Salmon Creek bridge (while traveling northbound) for a duration of 6 seconds when traveling the maximum speed limit of 50mph.

b) The project proposes minimal grading and preserves the natural topography. No trees or brush will be removed. The project preserves a healthy grove of Grand Firs across the east edge of the property.

c) The buildings reflect the simple barn shapes of the coastal landscape. Roof lines match the sloping topography, making the buildings appear to grow from the landscape. Although the height limit for this property is 28', the design features low hung buildings which tuck down to the land. 90% of the house structure is below 15' above grade and 90% of the workshop/guest house is below 18' above grade. These are not tall buildings.

d) It should be noted that our design is very similar to the John Danhaki property on Middle Ridge Road, CDP #65-07 as well as the coastal barns with clerestory windows. During our public hearing we presented photos of various local structures. Copies of the photos are included with this letter.

Item #3: 3.5-3

a) The property is designated as a highly scenic area, east of highway one. Being on the east side of highway one, it does not and cannot alter views of the ocean or the coast line for the public. Building heights are addressed in Item 2. The appellant is correct that the story poles have been up for a while as we worked with the Planning Department, moving structures, reducing the driveway length and utilizing the existing apron.

b) The design proposes 2 structures, a full time residence of 2524 sq.ft. with 2 car garage of 634sq.ft. and 329 sqft of covered porches. The workshop is 1516 sq.ft. & the guest house 501 sq.ft. with a 121 sqft. covered porch. The residence is one story in height and hugs the ground with low walls and a short overhang. The workshop/guest house is slightly taller and tucked against the grand fir forest towards the east.

When viewed from the bridge traveling north, the silhouette of the roofline will remain well below the backdrop of the Andersen ranch hills and Grand Fir groves. While traveling northbound as the bridge dips lower, the roofline may appear to silhouette the skyline for no more that 2 seconds assuming the normal flow of traffic. It is not likely that the roofline would be visible from the Salmon Creek beach or stream as the reciprocal has not been observed. It should be noted that the story poles show the highest peaks at the clear story pop-outs and not the heights of the main roofs.

The appellants claim the local trees are dying when in fact the site and surround areas are lush with trees and brush. The Grand firs on the property are healthy and much taller than the story poles.

It should be noted that the prevailing winds are normally out of the NW. There is gentle rise in the topography such that the lot resides in a leeward eddy of the gentle berm and therefore experiences milder wind exposure. This phenomenon is also evident in the way the Grand Fir groves have favored the SE. It would seem that the screening plants requested by the Planning Department would favor this setting as well, judging from the performance of the Grand Firs.

Please see Photo One and Two.

Photo 1: Highway One looking north across Salmon Creek Bridge.

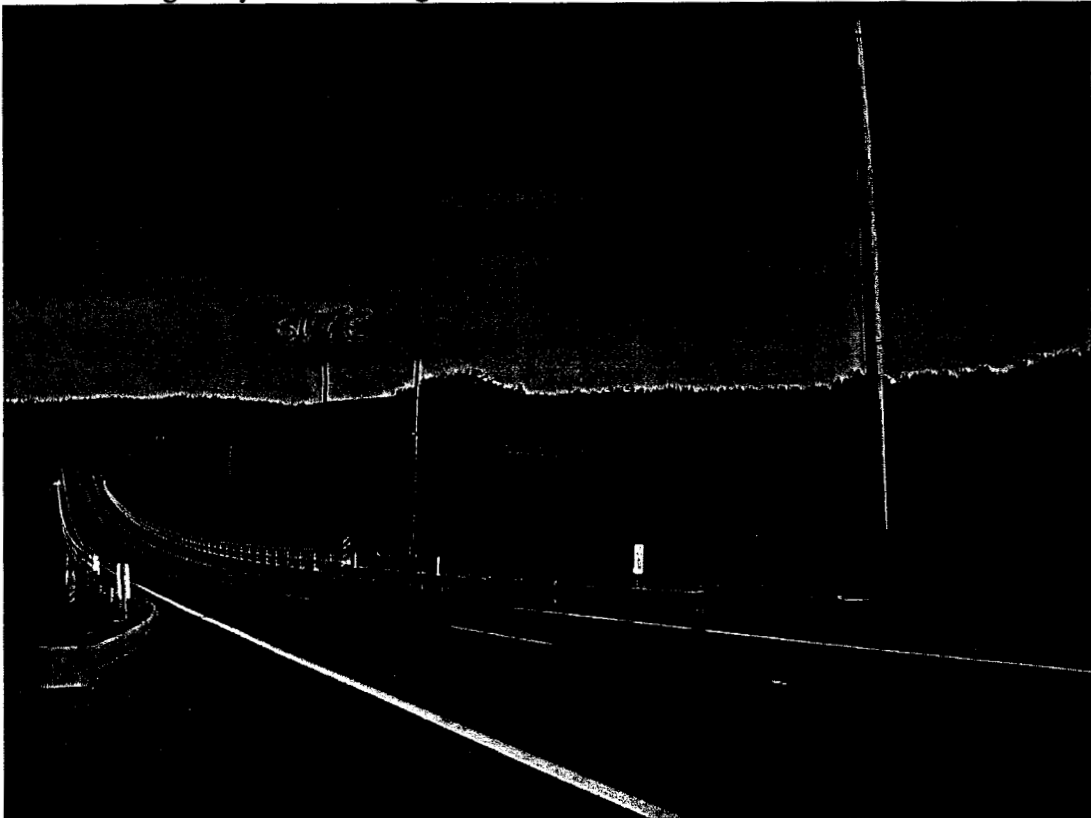


Photo 2: same view magnified to show the relative height of "looming story poles".



Item #4: 3.5-4

a) While it is arguable as to whether or not this property is in fact a "ridge," it certainly is subordinate to the dominant coastal ridge in the adjacent properties. In fact the property is the toe of the Albion Ridge. And the buildings are sited along the toe and against the Grand Fir forest. See the attached photos from Salmon Creek Bridge.

The Certificate of Compliance (COC) states that the parcel has not been created in violation of State Law or County Ordinance and is indeed a legal parcel. And in fact the parcel is a permitted development parcel with property line setbacks and height limits.

The design meets the intent of the LCP by:

- 1) Buildings follow the natural contours.
- 2) The Design respects the natural land forms with minimal grading.
- 3) The residence is partially concealed by the existing brush along the bluff edge. And the Workshop/guest house is tucked against the Grand Fir forest.
- 4) Roof slopes echo the sloping topography and exterior materials blend with the surrounding natural landscape.
- 5) Bluff setbacks have been created for erosion control.
- 6) The simple shapes of the structures, the short overhangs, the clearstory pop-outs and the natural siding materials draw architectural influences from the rural barns throughout the Mendocino coast.

Item #5: 3.5-8

1. Power transmission lines will be placed underground.

Item #6: 3.5-9

a) This project uses an existing farm road and apron off Highway One for access to the property. The existing gravel apron will be modified to meet current Caltrans requirements. (Caltrans has permitted this access.)

This farm road will be surfaced with drain-rock and gravel to meet current codes. It should be noted that most of the farm road is not visible from Hwy 1, due to the drop in grade of Highway One from the existing farm gate and continuing south to Salmon Creek Bridge, (a drop of almost 20'). Thick vegetation and an old sheep fence, which will be preserved also, obscure the farm road.

b) We have been in touch with Caltrans regarding possible replacement of Salmon Creek Bridge. Mike Yancheff, Caltrans project manager explained 4 designs are being considered and should Caltrans require property beyond their easement, Caltrans will provide mitigations for property loss. Information about the bridge replacement can be seen at the Caltrans link; www.dot.ca.gov/dist1/d1projects/albion_salmon/. Neither proposal will affect the existing apron not alter the lack of visibility of the farm road.

Photo 3: View from existing encroachment to the south.



east

west

existing gravel apron off highway one

Photo 4: Northbound view from HWY 1 just north of the Salmon Creek Bridge



west

east

Item #7:

1. Section 20.524: Coastal Rural Land Divisions

Response to appeal: Please see the CoC, this is a permitted development parcel created and approved in 2000 by the County and State. The parcel is in conformity with the LCP and is provided with adequate utilities, roads and drainage.

END OF REBUTTAL

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
710 E STREET, SUITE 200
EUREKA, CA 95501
VOICE (707) 446-7838 FAX (707) 446-7877



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: ^{Albion Residents Association} Melissa Hays and Rixanne Wehren for the Sierra Club

Mailing Address: PO Box 415

City: Albion

Zip Code: Ca 95410

Phone: 707-937-0090

SECTION II. Decision Being Appealed

1. Name of local/port government:

Mendocino County Planning and Building.

2. Brief description of development being appealed:

Construct a 2,524 +/- square foot single family residence with a 634 +/- square foot attached garage and 329 +/- square foot covered porches for a total of 3,487 +/- sq feet. The proposed single story structure would have a maximum average height of 21 feet above natural grade. Construct a detached accessory structure which includes a 1,516 +/- sq foot garage/workshop, a 501 +/- sq foot guest cottage and 121 +/- covered porch. The proposed accessory structure would have a maximum average height of 24 feet above natural grade and a total size of 2,138 +/- sq feet. The guest cottage would be occupied as a temporary residence before and during construction of the proposed residence. Associated development includes: upgrading an existing encroachment onto Highway 1, construct a 900 +/- foot long driveway, place a construction trailer, install a septic disposal system, drill a water well and install a water storage tank.

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

In the Coastal Zone, 1/4 +/- mile south of Albion and immediately north of Salmon Creek, on the east side of Highway 1 at 2800 North Highway 1 (APN: 123-350-06).

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

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

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JUL 27 2009

CALIFORNIA
COASTAL COMMISSION

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

<u>TO BE COMPLETED BY COMMISSION:</u>	
APPEAL NO:	A-1-MEN-09-034

STATE OF CALIFORNIA -- THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE

710 E STREET, SUITE 200

EUREKA, CA 95501

VOICE (707) 446-7833 FAX (707) 445-7877



DATE FILED:	<u>7/27/09</u>
DISTRICT:	<u>North Coast</u>

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

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

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

6. Date of local government's decision: June 25, 2009

7. Local government's file number (if any): CDP 57-2008

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Michael Marr and Judith Malin
43 Hillside Ave
Portsmouth RI 02871

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

(1) Melissa Hays, PO Box 415, Albion Ca 95410

(2) Rixanne Wehren, ~~5555 249~~, Albion Ca 95410.
27401 Albion Ridge Rd.

(3)

(4)

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

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

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

We are appealing this coastal permit decision of local government because it is inconsistent with these sections of our Local Coastal Plan:

1. 3.1-2 and 3.1-7 The ESHA along the highway is not protected by the 100' buffer that is required.
2. 3.5-1, 3.5-2, 3.5-3 This proposed development is not sited and designed to protect views to and along the ocean and scenic coastal areas. It does not minimize the alteration of natural land forms and is not visually compatible with the character of surrounding areas. It is not subordinate to the character of its setting, but instead is too tall and visible from the highway and makes no effort to "tuck" into the setting. There are no other developments of its style in the area and it is not within the scope and character of existing development.
3. 3.5-3 This location is designated Highly Scenic. This proposed development is over 5,600 sq ft and does not provide for the protection of ocean and coastal views from public areas including Highway 1, Salmon Creek beach, and stream and the ocean. The public has been looking at the story poles for months recognizing that this 5,600 sq ft project is going to tower over the Highway and destroy the Highly Scenic ridgeline view. The special condition of planting trees is unrealistic as we have a tree virus which is killing our trees. The proposed site is located in a very windy area close to the ocean which is difficult for the growth and health of trees.
4. 3.5-4 This proposed location is sited on the top of a ridge. The parcel was created from a CoC and a boundary line adjustment and the site is zoned Rangeland 160. The magnitude of the proposed project is inappropriate for the site. The property is not buildable without destroying the intent of the Local Coastal Plan and intended zoning. The property is too small to tuck this massive development out of site. There is no fundamental or constitutional right to development of a CoC. The planner himself suggests that the site is so visible that any height of a building would be highly visible.
5. 3.5-8 Power transmission lines which will be visually intrusive within highly scenic corridors should be placed underground and there is no comment regarding this point in the application.
6. 3.5-9 The proposed application creates an encroachment onto Highway 1 and a 900 +/- foot long driveway to the home on top of the ridge. This road will parallel Highway 1 and be extremely visible as it will be placed in grassland destroying the scenic vista of the Anderson Ranch. Direct access to Highway 1 does not protect the coastal views. This road also crosses an ESHA. The application does not take into consideration the fact that Cal Trans is going to widen the road and replace the Albion Bridges.

and Salmon Creek

7. Mendocino County Zoning Code Division II of Title 20

- a) Section 20.524.010 (B)
- b) Section 20.504.005, 20.504.010, 20.504.015
- c) Section 20.532.050, 20.532.095

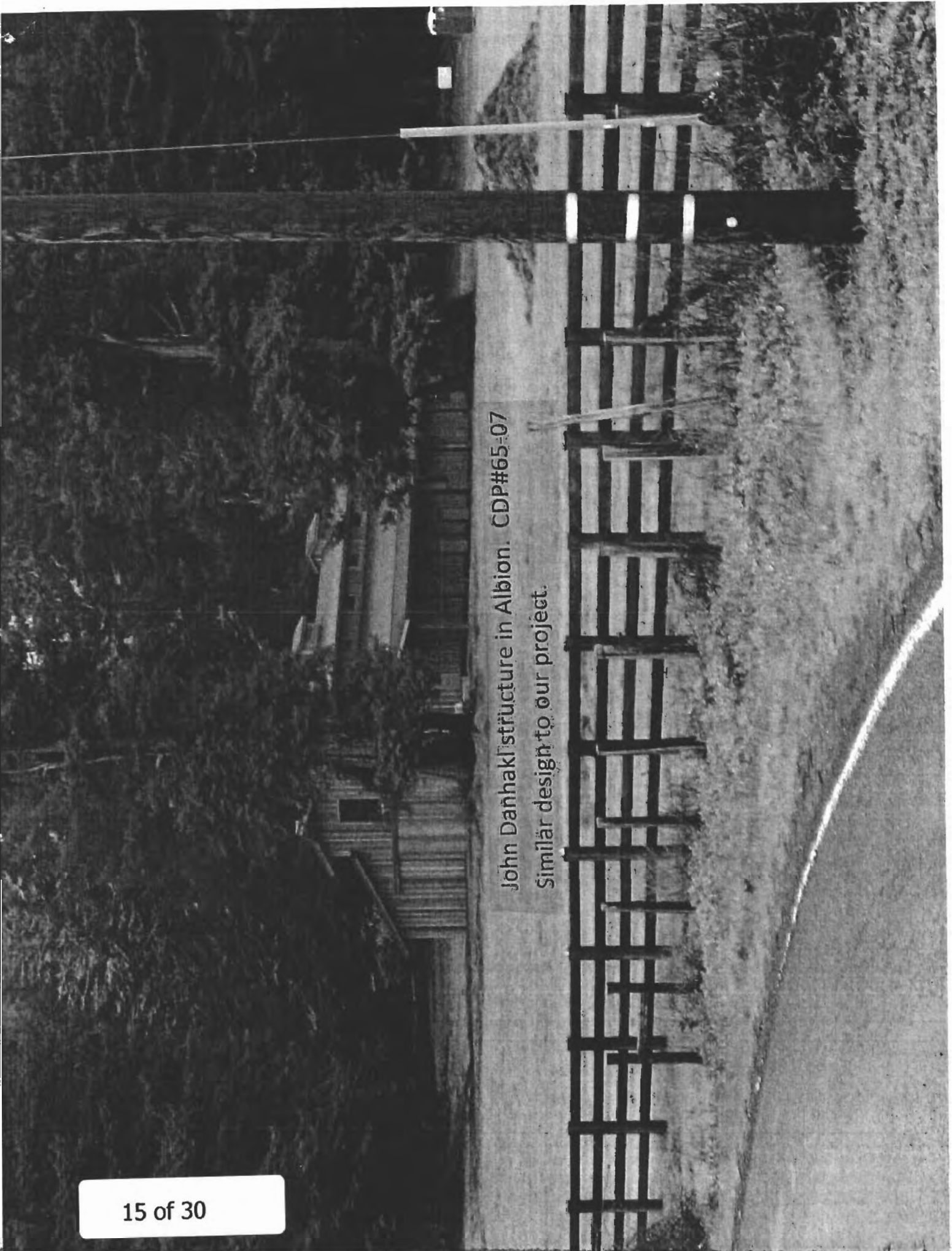
Exhibit 'A'

Beginning at the Northwest corner of the Southeast quarter of the Southwest quarter of Section 28, Township 16 North, Range 17 West, Mount Diablo Base and Meridian; thence Easterly along the North subdivision line of said Southeast quarter of Southwest quarter of said Section 28, 100 feet; thence Southerly and parallel to the west boundary of said Southeast quarter of Southwest of said Section 28 to the North line of the old County Road; thence westerly along said North line of the old County Road to the East line of California State Highway No. 1 as described in the deed to the state of California recorded April 7, 1949 in Book 242, official records, page 157, Mendocino County Records; thence Northerly along said East line of said California State Highway No. 1 to the boundary between Lots 1 and 2 of said Section 28; thence Easterly along said boundary between Lots 1 and 2 of said Section 28 to the point of beginning.

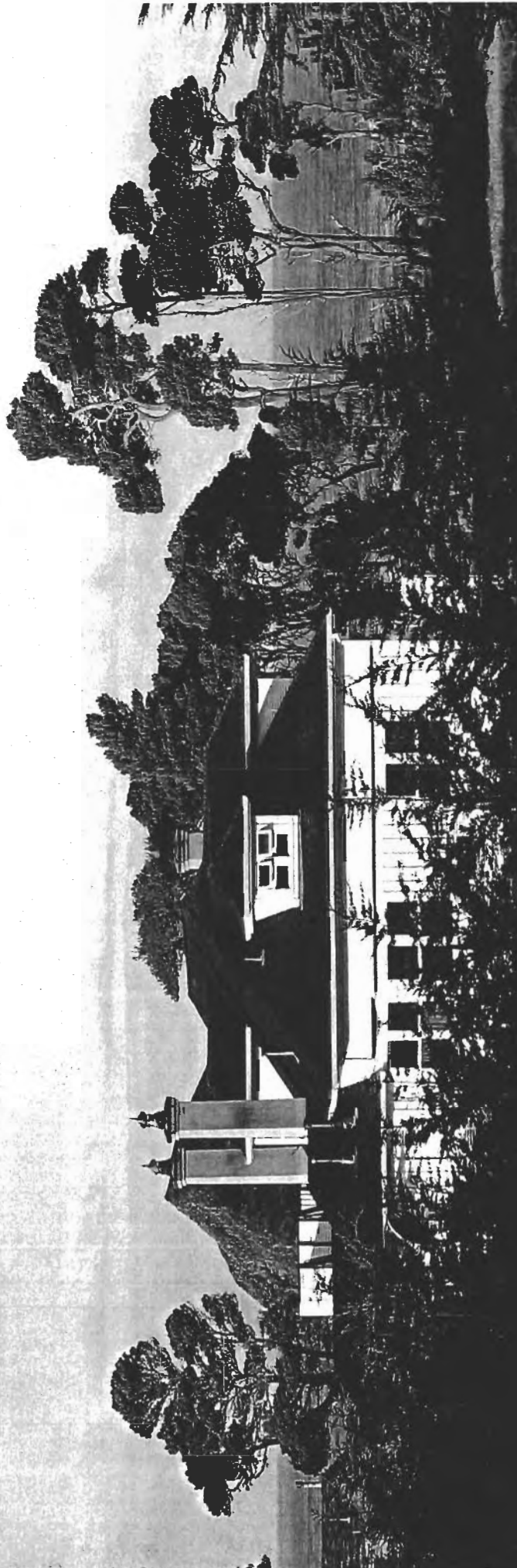


2000-06522
Page: 2 of 2

John Danhaki's structure in Albion. CDP#65-07
Similar design to our project.



Structure west side of highway one with dormers/ similar to clearstories.

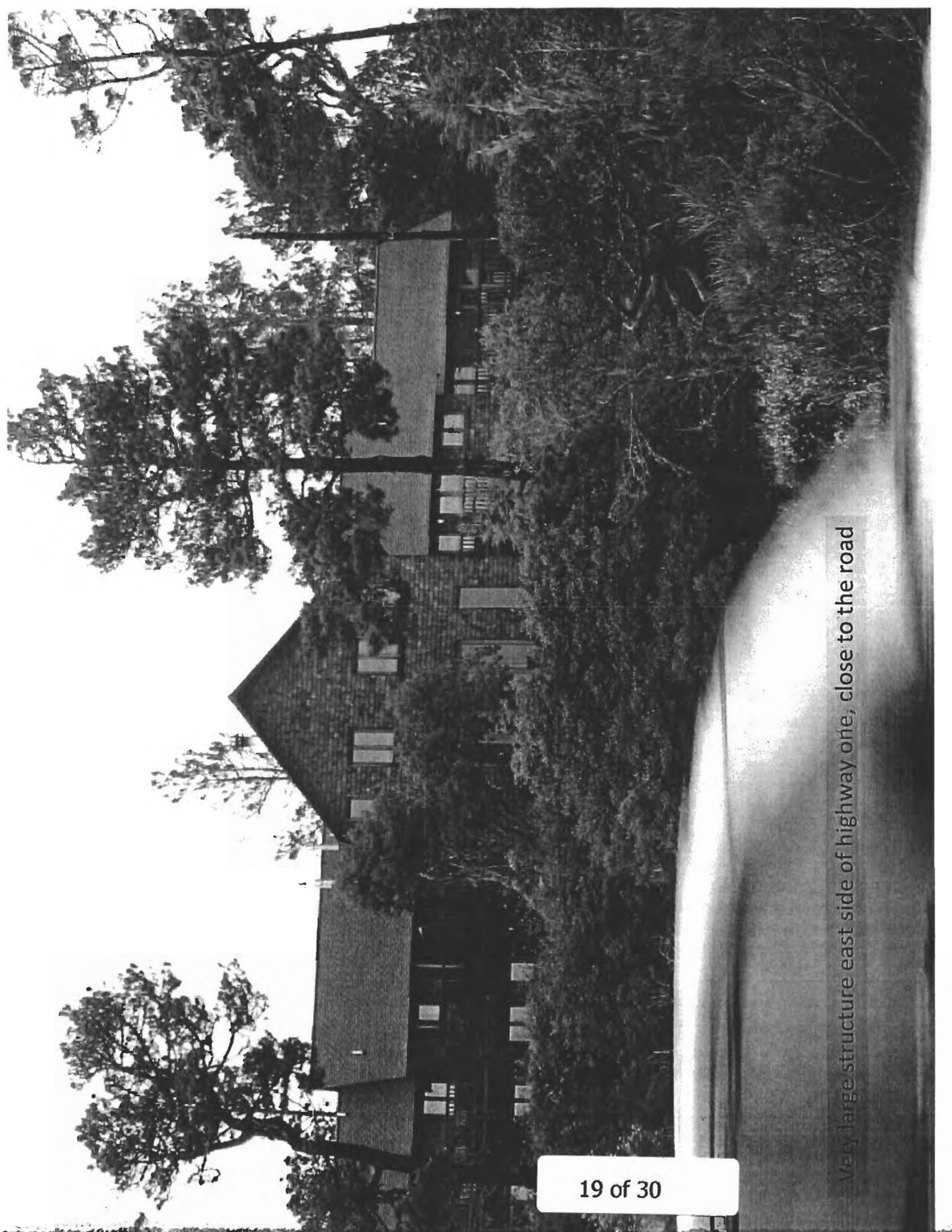




Barn converted to residence on the coast

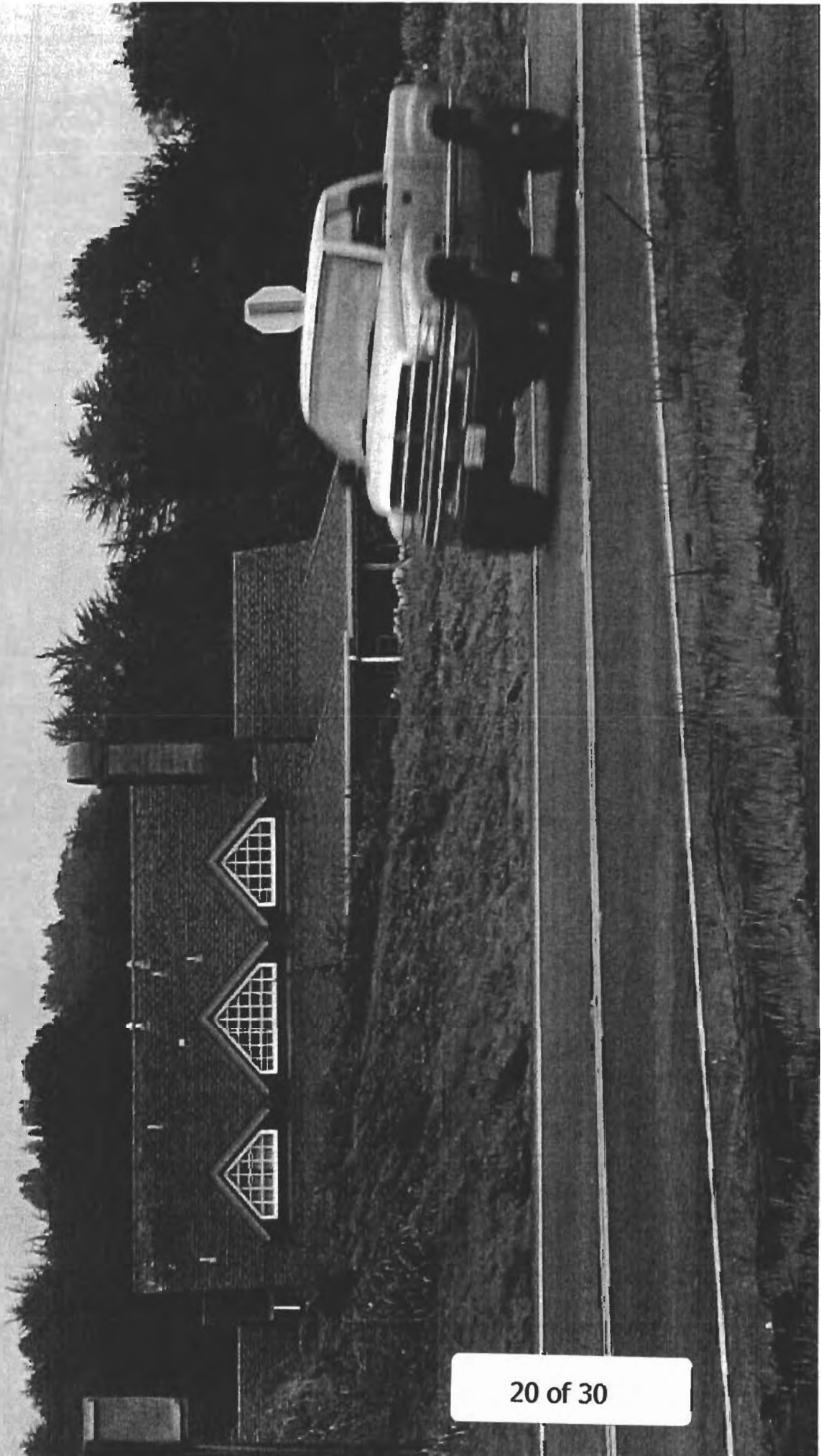
Structure east side of highway one. Note the height and
dormers/clearstories.



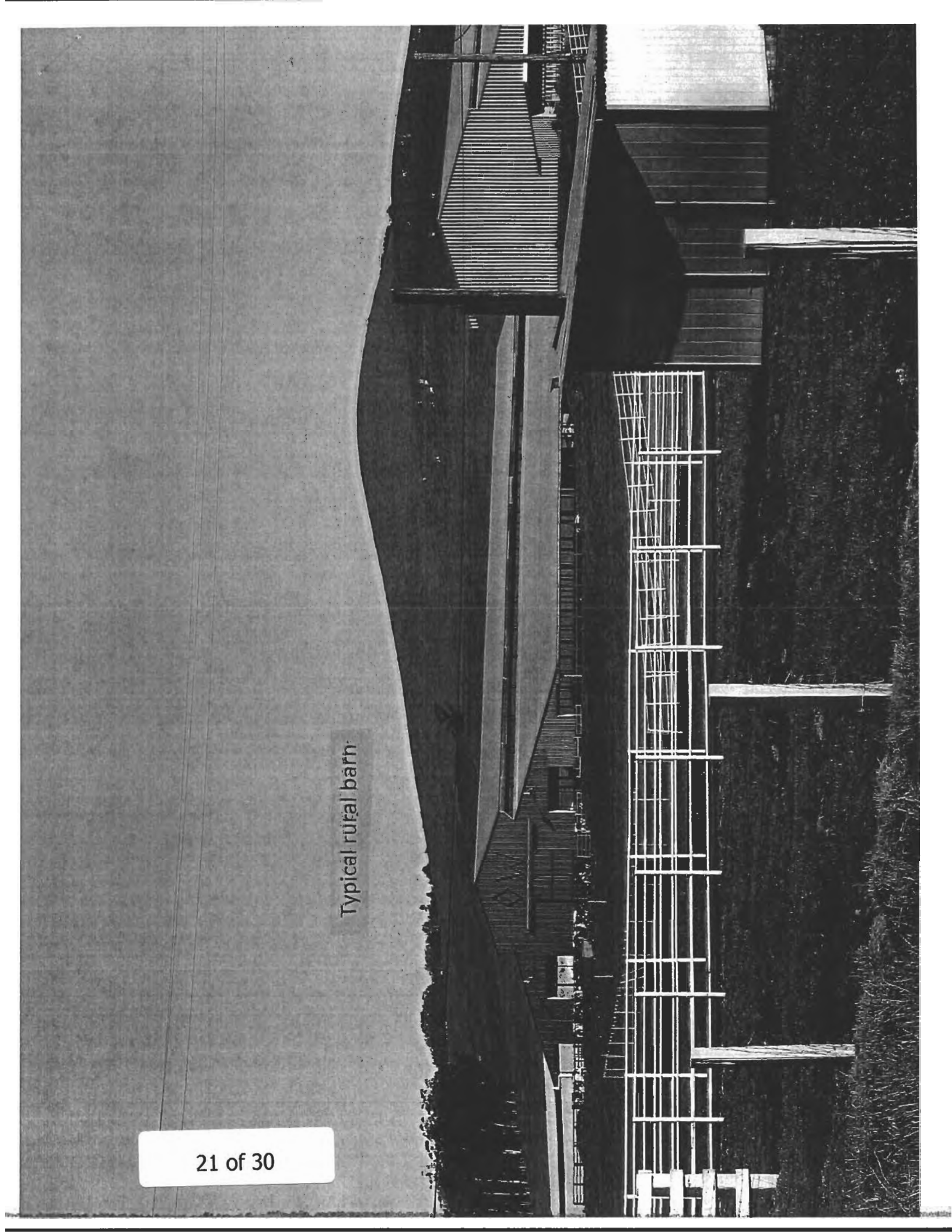


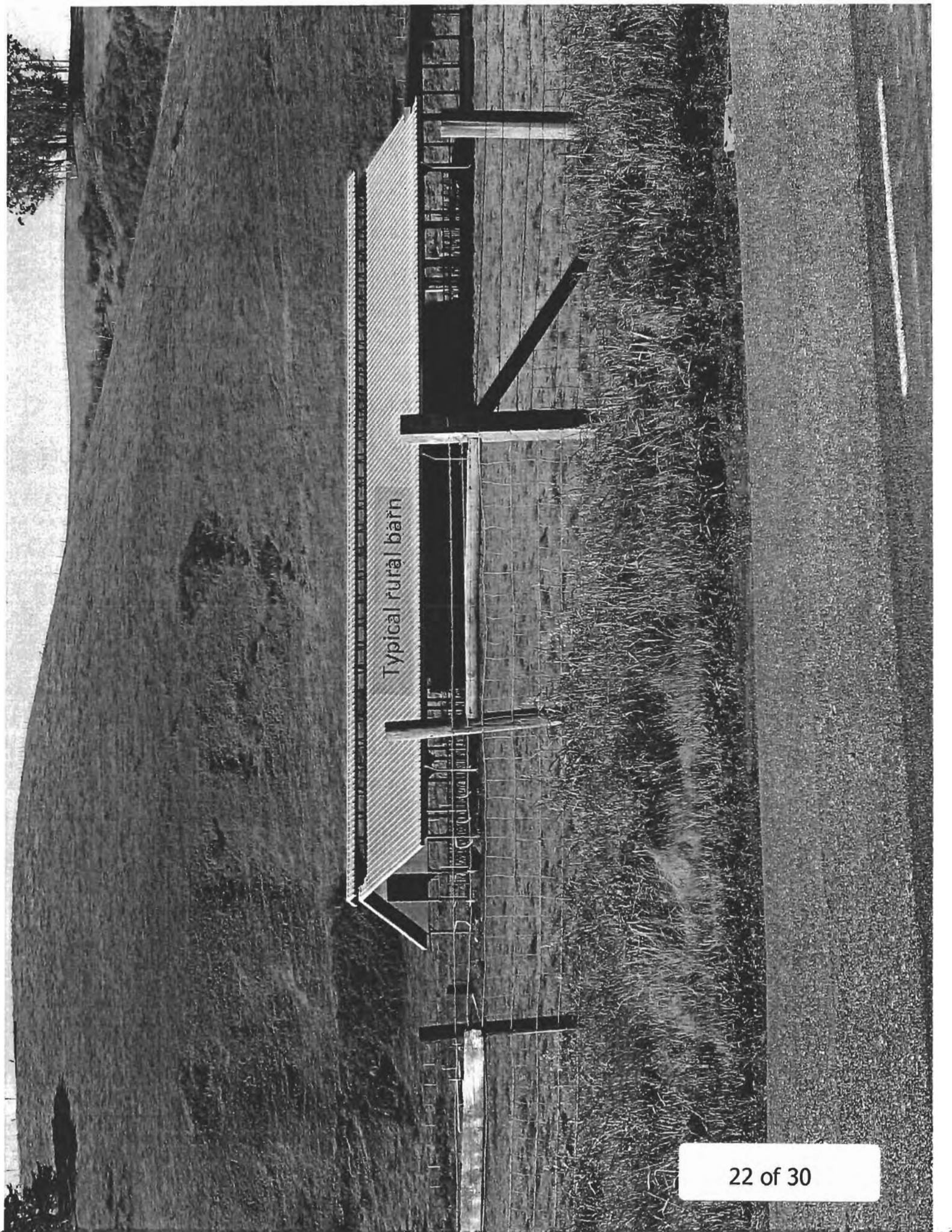
Very large structure east side of highway one, close to the road

Note the height and the dormers/clearstory windows.



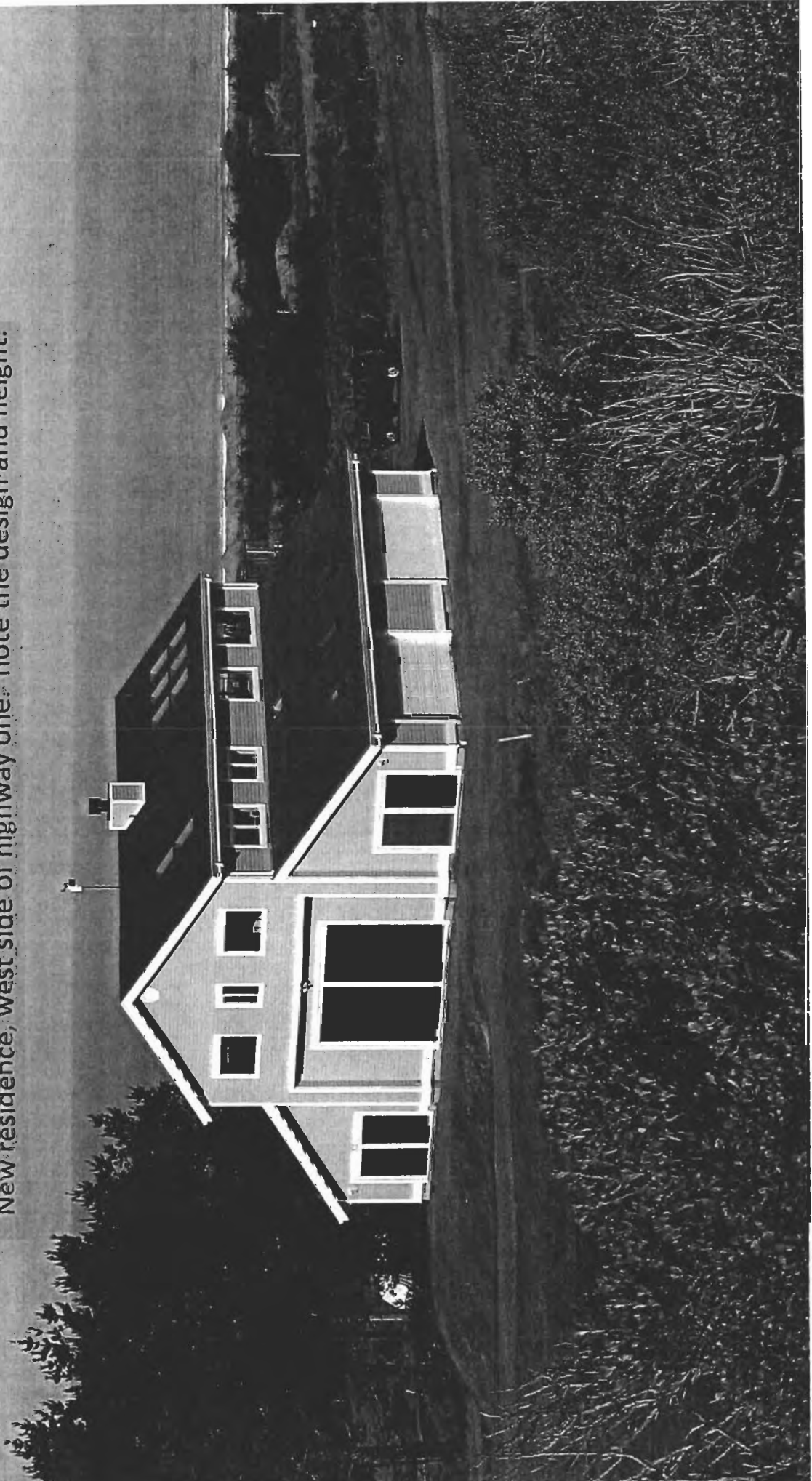
Typical rural barn



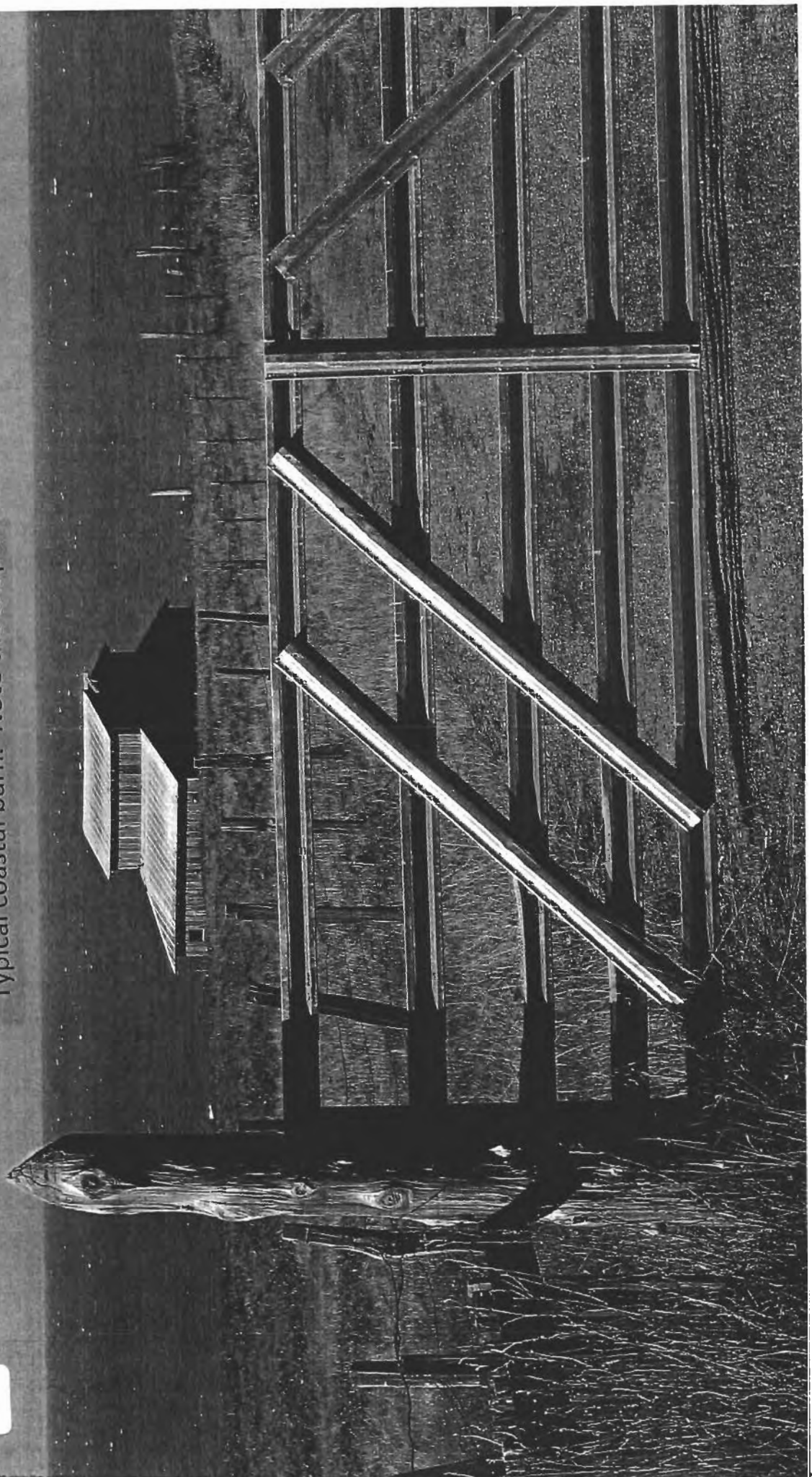


Typical rural barn

New residence, west side of highway one. note the design and height.

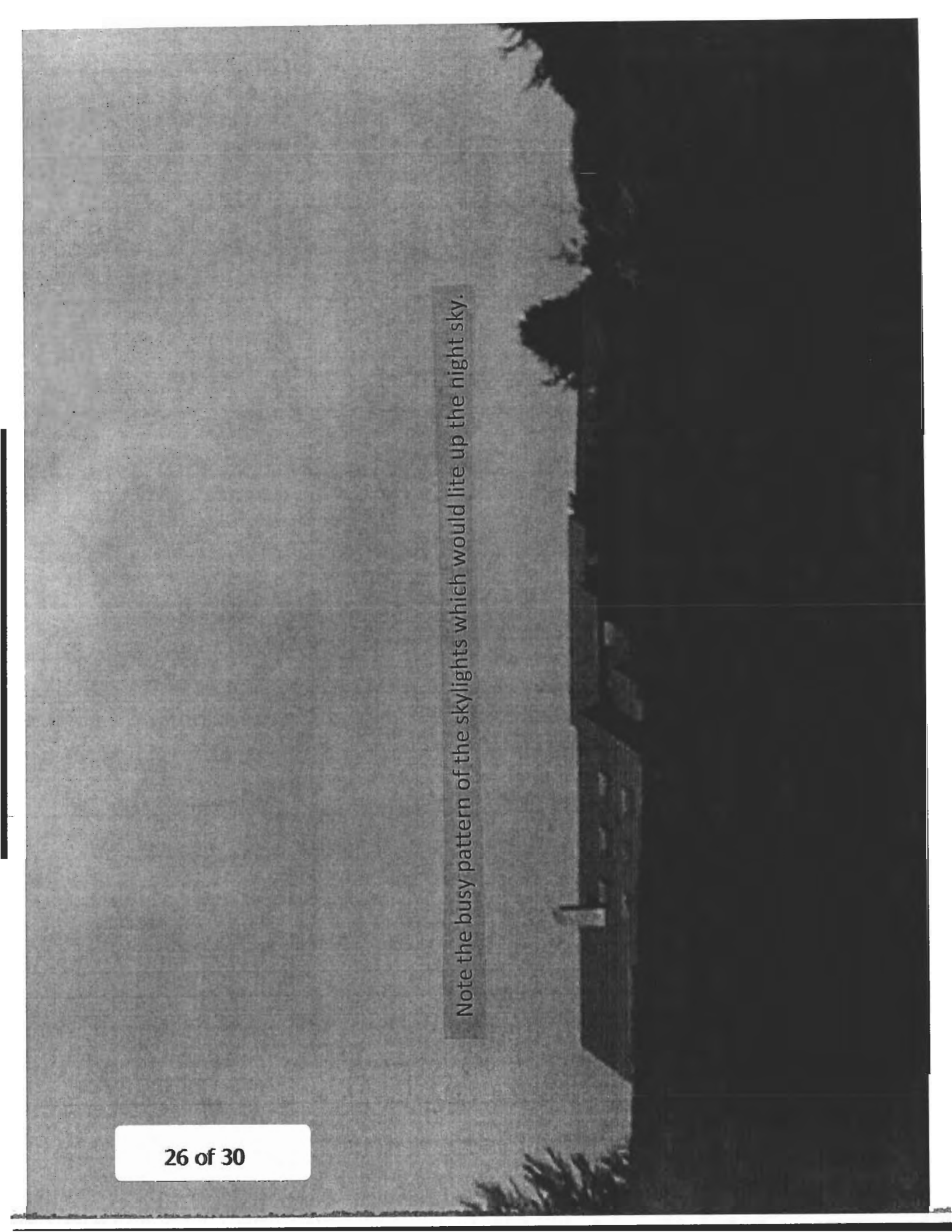


Typical coastal barn. Note the shape.



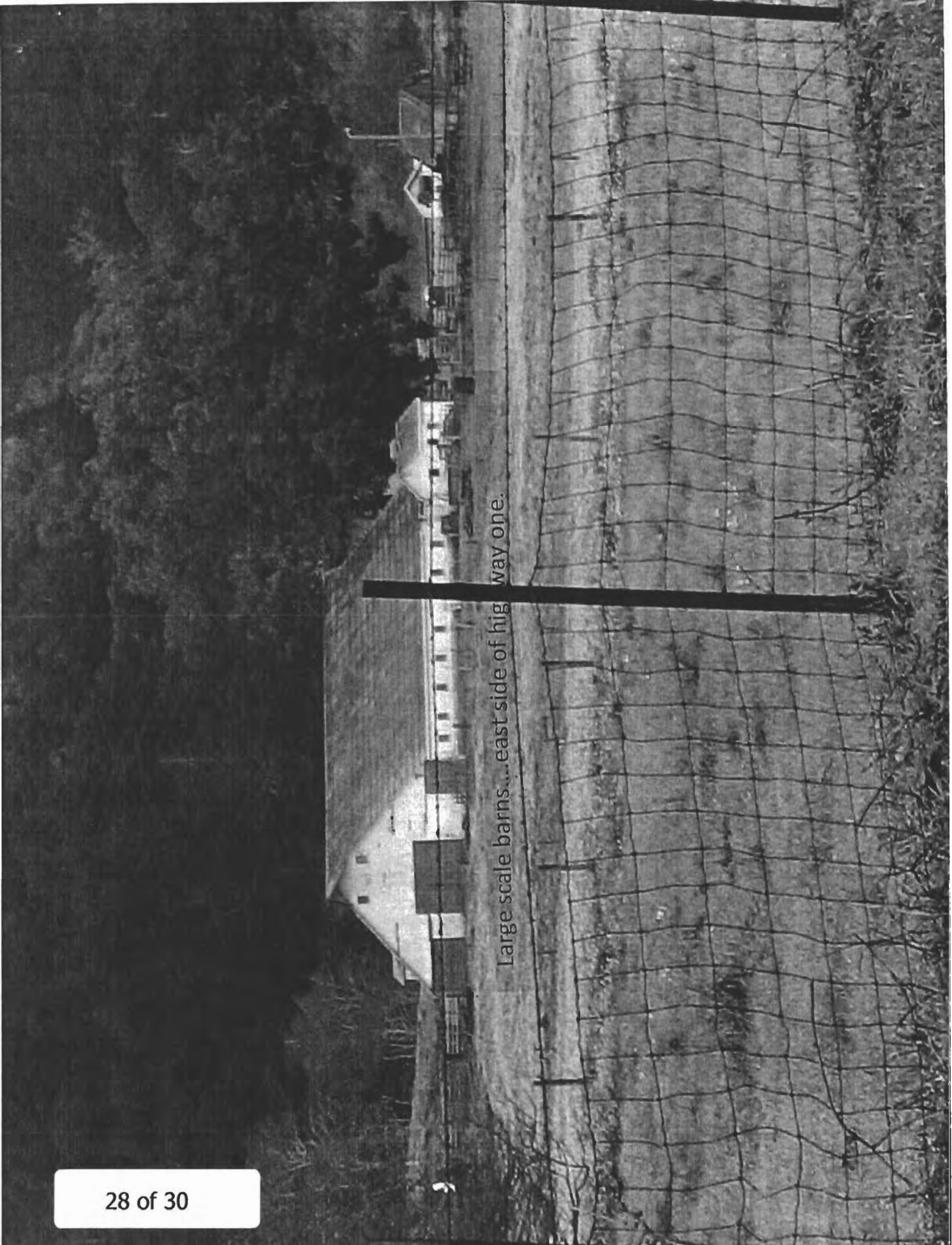


Typical coastal barn. Note the shape.



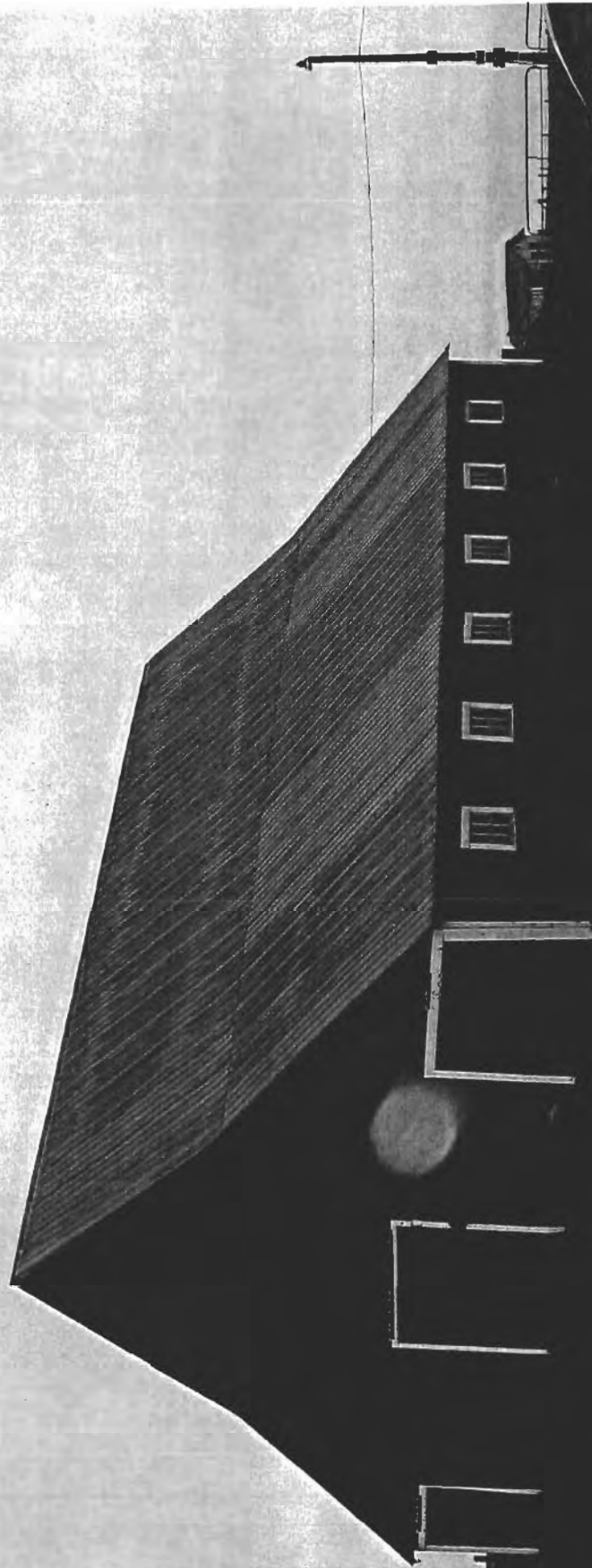
Note the busy pattern of the skylights which would lite up the night sky.





Large scale barns...east side of highway one.

Very large and tall barn...WEST SIDE OF HIGHWAY ONE.



New structure east side of highway one. Much taller than our project.