

CALIFORNIA COASTAL COMMISSION

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W14b

DATE: Prepared April 22, 2010 for the May 12, 2010 hearing

TO: Coastal Commissioners and Interested Parties

FROM: Peter Douglas, Executive Director
Robert Merrill, North Coast District Manager
Melissa B. Kraemer, Coastal Program Analyst

SUBJECT: **Appeal No. A-1-HUM-10-013 (Resort Improvement District #1,** local permit #CDP-09-02), Appeal by Commissioners Sara Wan and Patrick Kruer of Humboldt County decision granting a coastal development permit with conditions to Resort Improvement District #1 for the construction of an approximately 2,400-sq.-ft. storage building used to store maintenance equipment associated with an existing golf course. The structure would be approximately 16 feet tall, constructed of non-reflective metal siding and roofing, and located approximately 86 feet from the centerline of a perennial stream. A native planting plan is proposed along the stream corridor that will enhance the buffer and provide additional habitat. The project site is located at 10 Salmon Court & 61 Sea View Road on APN 111-181-06, Shelter Cove, Humboldt County.

Appeal filed: April 7, 2010; 49th day: May 26, 2010.

Recommendation:

Staff recommends that the Commission determine that **a substantial issue exists** with respect to the grounds on which Appeal No. A-1-HUM-10-013 has been filed and that the Commission hold a *de novo* hearing.

Staff recommends a **NO** vote on the following motion and resolution:

Motion & Resolution. *I move that the Commission determine and resolve that: Appeal No. A-1-HUM-10-013 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.

The Coastal Act presumes that an appeal raises a substantial issue of conformity of the approved project with the certified LCP, unless the Commission decides to take public testimony and vote on the question of substantial issue.

IMPORTANT NOTE:
THE COMMISSION WILL NOT TAKE PUBLIC TESTIMONY DURING THE
SUBSTANTIAL ISSUE PHASE OF THE APPEAL HEARING UNLESS
THREE COMMISSIONERS REQUEST IT.

Findings:

On March 4, 2010 the Humboldt County Planning Commission approved Coastal Development Permit No. 09-02 for the construction of an approximately 16-foot-tall, 2,400-square-foot storage building used to store maintenance equipment associated with the golf course on Lot LK (i.e., on a portion of the approximately 12.5-acre subject parcel that falls within the “Public Facilities” land use and zoning designation, as described below). The approved project also includes the determination of an “uncertain” boundary between the Natural Resources (NR) and Public Facilities (PF) zone districts on the subject parcel, such that the new storage structure will be sited entirely within the PF zone.

The approved development is located in Shelter Cove, within the Shelter Cove Sea Park subdivision, on a portion of APN 111-181-06 (“Lot LK”), in between the properties known as 10 Salmon Court & 61 Sea View Road (Exhibit Nos. 1-3). The approved development is located approximately 85 feet from the centerline of an unnamed perennial stream.

Pursuant to Coastal Act Section 30603, this approval is appealable to the Commission because (1) the approved development is not designated the “principal permitted use” under the certified LCP and (2) the approved development is located within 100 feet of a wetland.

The appellant (Commissioners Sara Wan and Patrick Kruer) claims that the approved project is inconsistent with the policies and standards of the Humboldt County certified Local Coastal Program (LCP) relating to (1) riparian corridor protection; (2) how to

resolve uncertainties in zone boundaries; and (3) permitted uses in lands planned and zoned Natural Resources.

Coastal Act Section 30625(b) requires the Commission to hear an appeal unless it determined 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 No. 11), appellant's claims (Exhibit No. 10), and the relevant requirements of the LCP (Appendix B). Staff recommends that the Commission find that the appeal raises a substantial issue of conformance of the approved project with respect to the provisions of the certified LCP regarding (1) riparian corridor protection, (2) how to resolve uncertainties in zone boundaries; and (3) permitted uses in lands planned and zoned Natural Resources, as explained below.

(1) Riparian Corridor Protection

The approved development raises a substantial issue with respect to the riparian corridor protection policies of the certified LCP for two main reasons. First, as the approved development is located within a riparian corridor as defined by Policy 3.41E(4) of the certified land use plan (South Coast Area Plan or "SCAP"), the approved development, a storage facility for golf course maintenance equipment, is not one of the uses within riparian corridors allowed by SCAP Policy 3.41E(5). Second, the County's approval did not make findings demonstrating that the approved project represents the least environmentally damaging feasible alternative, as is required by Section 312-39.4 of the certified coastal zoning regulations (CZR).

SCAP Policy 3.41E(4) states that "*Riparian corridors on all perennial and intermittent streams shall be, at a minimum, the larger of the following* (emphasis added): (a) 100 feet, measured as the horizontal distance from the stream transition line on both sides; (b) 50 feet plus four times the average percent of slope, measured as a slope distance from the stream transition line on both sides of intermittent and perennial streams; (c) where necessary, the width of riparian corridors shall be expanded to include significant areas of riparian vegetation adjacent to the corridor, slides, and areas with visible evidence of slope instability, not to exceed 200 feet measured as a horizontal distance; and (d) in Shelter Cove Sea Park, riparian corridors shall be the same as the "green belt" areas.

The approved development is located approximately 85 feet from the centerline of an unnamed perennial stream, which is surrounded by a narrow band of riparian wetland vegetation. It is unclear from the County's findings for approval how far the approved development is located from the outer edge of the riparian wetland vegetation surrounding

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.

the stream, but the approved development appears to be located on gently sloping terrain, approximately 60 feet away from the top of bank along the stream. The approved project also is located within a “green belt” area as shown on the Shelter Cove Sea Park subdivision map (Exhibit No. 4). “Green belt” areas are not formally defined anywhere in the certified LCP. However, the subdivision map for the Shelter Cove Sea Park, a 4,715-lot subdivision originally approved by the County in the mid-1960s prior to enactment of coastal development permit regulations, shows areas labeled “Open Space – Greenbelt” throughout the subdivision which mirror those same areas planned and zoned “NR” under the certified LCP on the area plan map in the SCAP (chapter 4, page 16 – Exhibit No. 5) and on certified zoning map “F,G-33” (Exhibit No. 6) with the exception of the air strip and surrounding golf course, which is shown as an “Open Space – Greenbelt” area on the subdivision map and is planned and zoned “PF” under the certified LCP.

The County, in its findings for approval of CDP No. 09-02, erroneously did not identify the subject site as being within a riparian corridor. The County and the applicant assert that there are problems with how SCAP Policy 3.41E(4) defines all “green belt” areas in Shelter Cove Sea Park as “riparian corridors,” since at least one such area (the air strip and adjacent golf course) serves public facilities uses and lacks riparian vegetation. However, the Commission finds that the subject site is unambiguously within a riparian corridor as specified under SCAP Policy 3.41E(4) because (1) as discussed above, the approved project is located within a “green belt” area as shown on: (a) the Shelter Cove Sea Park subdivision map (Exhibit No. 4); (b) the area plan map in the SCAP (chapter 4, page 16 – Exhibit No. 5); and (c) on certified zoning map “F,G-33” (Exhibit No. 6), and SCAP Policy 3.41E(4)(d) defines “riparian corridors” within Shelter Cove Sea Park as being coincident with “green belt” areas, and (2) the subject site is within 100 feet of a perennial stream. The Commission also notes that the site is planned and zoned for Natural Resources uses under the certified LCP, as are the vast majority of the “green belt” areas in Shelter Cove.

SCAP Policy 3.41E(5) limits uses within riparian corridors to only certain specified uses enumerated in the policy (e.g., wells, road and bridge replacement or construction, removal of firewood, etc.), and in those cases only when there is no less environmentally damaging feasible alternative and where the best mitigation measures feasible have been provided to minimize adverse environmental effects. Section 312-39.4 of the CZR further requires that only development that represents the least environmentally damaging feasible alternative shall be approved by the County for projects within coastal riparian areas.

Instead of finding the project consistent with the riparian corridor protection policies of the certified LCP, including, but not limited to, SCAP Policy 3.41E, the County made findings that the riparian habitat adjacent to the approved development would not be degraded by the new development, consistent with the natural resources protection provisions of the SCAP which address new development adjacent to environmentally sensitive habitat areas (ESHA). The County’s approval included special conditions requiring the applicant to implement a riparian buffer planting plan and to install a split-rail fence along the perimeter of the newly planted “riparian buffer” to symbolically deter entry into the area. The Commission notes that even if the approved development could legitimately be found

to not degrade the riparian habitat, SCAP Policy 3.41E(4) does not contain provisions for allowing the width of the riparian corridor to be reduced on that basis or any other basis.

By not recognizing that the subject site is located within a riparian corridor as defined by SCAP Policy 3.41E(4), the County has not adopted two key findings that provide factual and legal support for addressing the consistency of the project with the riparian corridor protection requirements of the certified LCP. First, the County did not address how the construction of a storage building for golf course maintenance equipment is an allowable use under SCAP Policy 3.41E(5), which as noted is limited to such development as wells, road and bridge replacement or construction, removal of firewood, and a few other specified uses. None of the allowable uses specifically include a storage building for golf course maintenance equipment. Second, the County did not address how the approved development represents the least environmentally damaging feasible alternative, as is required by CZR Section 312-39.4 for new development in riparian areas. The protection of ESHA, such as riparian areas, is a matter of regional and 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 riparian corridor protection policies of the certified LCP.

In conclusion, because (1) the approved development is within a riparian corridor as defined by the LCP, (2) the approved development is not one of the allowable uses permitted within riparian corridors, and (3) it is not clear that the approved development represents the least environmentally damaging feasible alternative, the Commission finds that the appeal raises a substantial issue regarding consistency of the approved development with the riparian corridor protection provisions of the certified LCP, including, but not limited to, SCAP Policy 3.41E(5) and CZR Section 312-39.4.

(2) Resolving Uncertainties in Zone Boundaries

The approved development is located on APN 111-181-06 (also known as “Lot LK” of the Shelter Cove Sea Park subdivision), which is an approximately 12.5-acre parcel with split land use and zone district designations under the certified LCP. The northern portion of the parcel, which includes portions of a perennial watercourse, is planned and zoned “Natural Resources” (NR). The southern portion of the parcel, which borders the air strip and contains the golf course, is planned and zoned “Public Facilities” (PF) (see Exhibit Nos. 3, 5 & 6).

In granting Humboldt County CDP No. 09-02 to Resort Improvement District #1 for the construction of an approximately 16-foot-tall, 2,400 square-foot storage building, the County Planning Commission determined that an “uncertain” boundary exists between the NR and PF zone districts on the parcel and, under the provisions of Section 311.8.2 of the CZR, determined that the new storage structure is sited entirely within the PF zone. Section 311.8.2 of the CZR provides for the determination, in certain situations, of an uncertain zone boundary line on properties indicated on a zoning map or maps by using the “*scale contained on such map or maps, and where uncertainty exists,...by the Planning Commission.*”

The County determined that the uncertain boundary line was located in a manner that mirrors the approved site plan for the new storage building, so that the zone boundary line, which generally appears in an east-west orientation on the certified zoning map, was interpreted to bubble out northward around an approximately 8,000-square-foot area that represents the approved building footprint for the approved storage facility and driveway extension areas (Exhibit No. 8). The County's approval of the "uncertain" boundary line in this manner raises a substantial issue with respect to Section 311.8.2 of the CZR, as explained below.

The site of the approved development lies near the boundary between the NR and PF zone districts as shown on certified zoning map "F,G-33" (see Exhibit No. 6). Upon close examination of the zoning map (in conjunction with examination of the Assessor's parcel map (Bk. 111, Pg. 07) detailing parcel numbers and street names, see Exhibit No. 3), the zone boundary line appears to be a more-or-less straight line in an approximately east-west orientation extending approximately due westward from the north side of APN 111-071-71 located on Salmon Court. It is unclear where precisely the boundary line between the NR and PF zone districts on the subject parcel adjoins with the northern boundary line of APN 111-071-71 – whether it adjoins somewhere in the middle of northern boundary line of APN 111-071-71 or at its northeast corner. But what is unquestionably clear is that the boundary line between the NR and PF zone districts extends in an approximately straight fashion, approximately due westward across the subject parcel from its junction with the northern boundary line of APN 111-071-71 for approximately 300 feet till its junction with the eastern boundary line of APN 111-181-04 (also known as "Lot LLL"). Examining the site plan approved under County CDP No. 09-02 in conjunction with the certified zoning map and Assessor's parcel map, it appears that the boundary line between the NR and PF zone districts on the subject parcel runs approximately through the middle of the existing metal building located immediately south of the approved building site for the new storage facility (with the NR zone district to the north of the line and the PF zone district to the south; see Exhibit Nos. 7 & 8).

As mentioned above, Section 311.8.2 of the certified CZR states that uncertainty in zone boundary lines, which are not approximately street, alley, or lot lines, shall be determined by the scale contained on the zoning map. In this case, as described above, although it is difficult to positively identify using zoning map "F,G-33" the precise points where the zone boundary line in question bisects the northern boundary of APN 111-071-71 and the eastern boundary of APN 111-181-04, the location of the line can and should be approximated from the zoning map, consistent with the provisions of CZR Section 311.8.2. Under Section 311.8.2, the Planning Commission would have the discretion to determine the specific locations of the uncertain points of bisection with APN 111-071-71 and APN 111-181-04. However, Section 311.8.2 of the CZR does not give the Planning Commission discretion to reshape or reorient zone boundary lines to accommodate specific developments, as it did in its interpretation of the "uncertain" zone boundary line in a manner that mirrors the approved site plan for the new storage building, so that the zone boundary line, which appears to lie in an east-west orientation on the certified zoning map, was "interpreted" to bubble out northward around an approximately 8,000-square-foot area

that represents the approved building footprint for the approved storage facility and driveway extension areas. Thus, the County's findings for determining that the boundary line between the NR and PF zone districts correlates precisely with the approved site plan for the new storage facility do not offer factual and legal support for addressing the consistency of the uncertain boundary determination with CZR Section 311.8.2, which requires that uncertain zone boundary lines be determined by the scale contained on the zoning map. Additionally, the County's determination of the zone boundary line in this manner would set a bad precedent for future interpretations of the LCP. Therefore, the County's action raises a substantial issue with respect to the conformance of the project as approved with CZR Section 311.8.2.

In conclusion, because (1) the boundary line between the NR and PF zone districts on the subject site appears to lie in an approximately straight east-west orientation as seen on the certified zoning map, and (2) the County's determination of the uncertain boundary line was approved such that the boundary line was interpreted to bubble out northward around an approximately 8,000-square-foot area that mirrors the building footprint on the approved site plan for the new storage facility, the Commission finds that the appeal raises a substantial issue regarding consistency of the approved development with policies and standard of the certified LCP relating to how to resolve uncertainties in zone boundaries, including, but not limited to, CZR Section 311.8.2.

(3) Permitted Uses on Lands Planned & Zoned "Natural Resources" (NR)

As discussed above, the boundary line between the NR and PF zone districts on the subject parcel lies somewhere south of the approved building site for the new storage facility, perhaps approximately adjacent to or even through the middle of the existing metal building located immediately south of the approved development site, with the NR zone district to the north of the boundary line and the PF zone district to the south. Thus, the development approved by the County under CDP No. 09-02 is located on land planned and zoned for Natural Resources uses.

Under the certified LCP, principal uses allowed on lands designated and zoned NR are limited to those associated with fish and wildlife habitat management (e.g., *"the manipulation or maintenance of vegetation or streams, or construction of minor structures to yield desired results in terms of habitat suitable for designated wildlife or fishery species or groups of species"*). Conditional uses allowed on lands designated NR under the certified SCAP include *wetland restoration, development of hunting blinds and similar minor facilities, improvement of boating facilities in estuaries consistent with applicable policies of the plan, and removal of trees for disease control and public safety purposes*. Conditional uses allowed on lands zoned NR under the certified zoning regulations include *Caretaker's Residence, Minor Utilities, Oil and Gas Pipelines, Major Electrical Distribution Lines, Minor Generation and Distribution Facilities, Aquaculture, Surface Mining, Watershed Management, Wetland Management, Boating Facilities Improvements, Resource-Related Recreation, and Coastal Access Facilities*.

A storage facility for golf course maintenance equipment is not included in the list of principally permitted or conditionally permitted uses in the NR designated areas or NR zoning districts under either the SCAP or Section 313-5.4 of the CZR. Thus, the County's approval of a storage facility for golf course maintenance equipment on the subject site raises a substantial issue with respect to the policies and standards of the certified LCP regarding permitted uses on lands planned and zoned Natural Resources, including but not limited to, SCAP Section 5.20 and CZR Sections 312.17.1.2 and 313-5.4, because the approved use is neither one of the principally permitted nor conditionally permitted use types allowed in the NR land use and zone district under the certified LCP.

The County, in its findings for approval of CDP No. 09-02, erroneously did not identify the subject site as being on land planned and zoned for NR uses. Instead it made findings that the project was compatible with the site's adjacent Public Facilities (PF) designation and zoning, since, as discussed above, the County determined the "uncertain" boundary line between the NR and PF zone districts to be oriented such that the new storage structure is sited entirely within the PF zone. By not recognizing that the subject site is indeed located on land planned and zoned NR, the County has not adopted findings that provide factual and legal support for addressing the consistency of the project with the policies and standards of the certified LCP regarding permitted uses on lands planned and zoned NR including (1) how the construction of a storage building for golf course maintenance equipment is a permitted use under SCAP Section 5.20 and CZR Section 313-5.4 and (2) how the approved development is consistent with the purpose of the NR zone, which is "*to protect and enhance valuable fish and wildlife habitats, and provide for public and private use of their resources, including hunting, fishing, and other forms of recreation*" (SCAP Section 5.20), as is required by Section 312-17.1.2 of the CZR. The protection of ESHA, including riparian wetland habitat and other types of important wildlife habitat, is a matter of regional and 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 riparian corridor protection policies of the certified LCP.

The applicant has stated that because the majority of the stream does not fall on the subject property proper but rather on various lots located adjacent to the subject property to the north, the applicant believed that a rezone of the property was warranted, and thus in 2006 it petitioned the County to redesignate and rezone the subject parcel Public Facilities, except for a small band along the northern boundary of the parcel to remain NR to provide for a 50-foot buffer encompassing "the southern slope of the entire drainage 15 feet back from the top of slope along the unnamed creek" (see Exhibit No. 9). The County approved the rezone of the area in 2007, and an LCP amendment application has been submitted to the Commission but to date remains incomplete and as a result, has not yet been scheduled for Commission action.

In conclusion, because the approved development (1) is located on land planned and zoned NR under the certified LCP, and (2) is neither one of the principally permitted nor conditionally permitted uses allowed on NR-designated/zoned lands, the Commission finds that the appeal raises a substantial issue regarding consistency of the approved

development with the policies and standards of the certified LCP regarding permitted uses on lands planned and zoned Natural Resources, including, but not limited to, SCAP Section 5.20 and CZR Sections 312.17.1.2 and 313-5.4

(4) 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.

A. Certified LCP Amendment for the Subject Site

As discussed above, the project raises a substantial issue regarding consistency of the approved development with the policies and standards of the certified LCP regarding permitted uses on lands planned and zoned Natural Resources as well as with the riparian corridor protection policies of the certified LCP. The County approved a rezone of a portion of the subject parcel from NR to PF in 2007 (see Exhibit No. 9), and that approval was transmitted to the Commission for certification under LCP Amendment Application No. HUM-MAJ-1-07. To date, the LCP amendment application remains incomplete and has not yet been certified by the Commission. The Commission may certify the LCP amendment application as submitted, it may deny the application but certify it with suggested modifications, or it may deny the application altogether. Before the Commission can approve the subject coastal development permit for the new storage facility on the subject site, the Commission must certify an amendment of the land use designation and zoning district applicable to the site, as ultimately the land use and zone district designations of the subject site will dictate the types of uses permitted on the subject site.

B. Information on Vegetation Removal

Information in the local record indicates that vegetation may have been removed on the project site without the benefit of a coastal development permit (area where vegetation was removed is somewhat visible in a recent aerial photo of the site seen in Exhibit No. 7). The LCP (CZR Section 313-64.1) defines "major vegetation removal" in part as (1) the removal of one or more trees with a circumference of 38 inches or more measured at 4.5-foot vertically above the ground; or (2) the removal of trees within a total aggregate contiguous or non-contiguous area or areas exceeding 6,000 square feet, measured as the

total of the area(s) located directly beneath the tree canopy. In addition, other instances of vegetation removal may constitute “major vegetation removal” as defined by the LCP if in part (3) the major vegetation removal involves the use of heavy equipment; (4) the major vegetation removal is located within or adjacent to an environmentally sensitive habitat; or (5) the major vegetation removal may result in significant exposure of adjacent trees to wind damage.

Development of the golf course maintenance equipment storage structure is dependent on the removal of the trees, as portions of the development would be located in an area that formerly contained some of the removed trees. If the tree removal constituted development requiring a coastal development permit, such tree removal would have to be authorized to allow for the new structure. In that case, the applicant may choose to amend the project description to include the tree removal development.

To determine whether or not the vegetation removal in the area constituted “major vegetation removal” as defined by the LCP, the Commission needs to receive a description of (a) the type of vegetation on the project site prior to its unpermitted removal (e.g., species involved, size and/or age of plants/trees, density of vegetation); (b) the amount of vegetation that was removed from the project site (e.g., number of trees, size of vegetation removal area); (c) when the vegetation removal occurred (e.g., use aerial photo documentation if possible); and (d) the method of vegetation removal (e.g., whether or not heavy equipment was involved).

C. Information on Zone Boundary Line Mapping

The zone boundary line between the PF and NR zone districts on the subject parcel, as it appears on zoning map “F,G-33” of the certified LCP, appears to be a more or less straight line oriented in a more or less east-west direction. The zone boundary line was mapped on the site plan for the new storage facility approved under CDP No. 09-02, and the Commission needs to understand how the placement of the zone boundary line on the site plan was determined on the ground, including how the location of the zone boundary line was determined relative to the placement of the existing metal storage building located adjacent to the subject site at the time that that metal storage building was constructed.

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: Excerpts from the Humboldt County Local Coastal Program

EXHIBITS

1. Regional Location Map
2. Vicinity Map
3. Assessor's Parcel Maps
4. Portion of Shelter Cove Sea Park Subdivision Map
5. Certified Land Use Plan Map (chapter 4, page 16 of the SCAP)
6. Certified Zoning Map "F,G-33"
7. Aerial Photo
8. Approved Site Plan
9. County-Approved Rezone of Subject Property
10. Appeal
11. Notice of Final Local Action and Findings for Approval
12. Applicant's Correspondence

APPENDIX A

COMMISSION'S APPEAL JURISDICTION OVER THE PROJECT

On March 4, 2010 the Humboldt County Planning Commission conditionally approved Coastal Development Permit No. 09-02 for the construction of an approximately 16-foot-tall, 2,400 square-foot storage building for golf course maintenance equipment. The approved project also includes the determination of an "uncertain" boundary between the Natural Resources (NR) and Public Facilities (PF) zone districts on the subject parcel, such that the new storage structure will be sited entirely within the PF zone.

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 300 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 100 feet of any wetland or stream, or within 300 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 local governments 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 local government. The grounds for an appeal are limited to an allegation that the development does not conform to the standards set forth in the certified LCP 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 (1) the approved development is not designated the "principal permitted use" under the certified LCP and (2) the approved development is located within 100 feet of a wetland.

The decision of the Planning Commission was not appealed at the local level to the County Board of Supervisors. The County then issued a Notice of Final Action, which was received at the Commission's North Coast District Office on March 23, 2010 (Exhibit No. 11). Section 13573 of the Commission's regulations allows for appeals of local approvals to be made directly to the Commission without first having exhausted all local appeals when, as here, the local jurisdiction charges an appeal fee for the filing and processing of local appeals.

One appeal was filed with the Commission's North Coast District Office on April 7, 2010 from Commissioners Sara Wan and Patrick Kruer (Exhibit No. 10). The appeal was filed in a timely manner, within 10 working days of receipt by the Commission of the County's Notice of Final Action.

APPENDIX B

EXCERPTS FROM THE HUMBOLDT COUNTY CERTIFIED LOCAL COASTAL PROGRAM

Summary of Applicable LCP Policies Relating to Riparian Corridor Protection:

Land Use Plan (South Coast Area Plan, or SCAP) Policy 3.41E(4) states as follows (emphasis added):

4. Riparian corridors on all perennial and intermittent streams shall be, at a minimum, the larger of the following:
 - a. 100 feet, measured as the horizontal distance from the stream transition line on both sides.
 - b. 50 feet plus four times the average percent of slope, measured as a slope distance from the stream transition line on both sides of intermittent and perennial streams.
 - c. Where necessary, the width of riparian corridors shall be expanded to include significant areas of riparian vegetation adjacent to the corridor, slides, and areas with visible evidence of slope instability, not to exceed 200 feet measured as a horizontal distance.
 - d. In Shelter Cove Sea Park the riparian corridors shall be the same as the 'green belt' areas"

SCAP Policy 3.41E(5) states, in applicable part, as follows (emphasis added):

New development within riparian corridors shall be permitted when there is no less environmentally damaging feasible alternative, where the best mitigation measures feasible have been provided to minimize adverse environmental effects, and shall be limited to the following uses:

- a. Timber management activities...
- b. Timber harvests...
- c. Maintenance of flood control and drainage channels.
- d. Wells...
- e. Road and bridge replacement or construction...
- f. Removal of trees for disease control or public safety purposes.
- g. Removal of firewood...
- h. Mitigation measures for development within riparian corridors shall, at a minimum, include replanting disturbed areas with riparian vegetation, retaining snags..., and retaining live trees with visible evidence of current use as nesting sites by hawks, owls, eagles, osprey, herons, or egrets.
- i. The County shall request the Department of Fish and Game to review plans for development within riparian corridors, the Department may recommend measures to mitigate disruptions to habitats.

Sections 312-17 through 312-49 of the Coastal Zoning Regulations (CZR) describe the various required and supplemental findings that must be made in order for the County to approve a coastal development permit. The Section states, in applicable part, as follows (emphasis added):

...

17.3 SUPPLEMENTAL FINDINGS

In addition to the required findings for all permits and variances, the Hearing Officer may approve or conditionally approve an application for a Special Permit, Use Permit, Coastal Development Permit, or Planned Unit Development Permit only if the supplemental findings, as applicable, are made...

...

312-39 SUPPLEMENTAL COASTAL RESOURCE PROTECTION IMPACT FINDINGS

...

39.4 COASTAL STREAMS AND RIPARIAN AREAS

39.4.1 There are no significant adverse effects on habitat areas; (Former Section CZ#A315-16(I)(4)(a))

39.4.2 There is no less environmentally damaging feasible alternative; and (Former Section CZ#A315-16(I)(4)(b))

39.4.3 The best mitigation measures feasible have been provided to minimize adverse environmental effects. (Former Section CZ#A315-16(I)(4)(c))

...

Summary of Applicable LCP Policies Relating to How to Resolve Uncertainties in Zone Boundaries:

Section 311.8, “*Uncertainties in Zone Boundaries; How to Resolve,*” of the certified CZR states, in applicable part, as follows (emphasis added):

...

8.2 *Scale on Map; Determination by Commission.* *Where the property is indicated on a zoning map or maps as acreage and not subdivided into lots and blocks, or where the zone boundary lines are not approximately street, alley or lot lines, the zone boundary lines on said zoning map or maps shall be determined by scale contained on such map or maps, and where uncertainty exists, the zone boundary line shall be determined by the Planning Commission. In the event property shown as acreage on the zoning map or maps has been or is subsequently subdivided into lots or lot and block arrangement does not conform to that anticipated when the zone boundaries were established, the Planning Commission, after notice to the owners of the property affected thereby, may interpret the zone maps in such a way as to implement the intent and purpose of these regulations and conform to the street, block and lot layout on the ground. Such interpretation shall be by written decision, and thereafter the copies of the zoning maps shall be changed to conform thereto. (Former Section INL#313-5(c); CZ#A311-10 (B); Ord. 519, Sec. 305, 5/11/65; Ord. 1705, 9/10/85; Amended by Ord. 2214, 6/6/00)*

...

Summary of Applicable LCP Policies Relating to Permitted Uses on Lands Planned and Zoned for Natural Resources Uses:

SCAP Section 4.40, “*Area Plan Maps*,” chapter 4, page 16, depicts the land use designation for the subject site as “NR: Natural Resources.”

SCAP Section 5.20, “*Urban Plan Designations*,” lists the following standards that apply to lands designated “Natural Resources:”

Purpose: to protect and enhance valuable fish and wildlife habitats, and provide for public and private use of their resources, including hunting, fishing, and other forms of recreation.

Principal Use: management for fish and wildlife habitat.

Conditional Uses: wetland restoration, development of hunting blinds and similar minor facilities, improvement of boating facilities in estuaries consistent with applicable policies of the plan, and removal of trees for disease control and public safety purposes.

The certified zoning map “F,G-33” depicts the zoning district for the subject site as “NR: Natural Resources.”

Section 313-5.4 of the CZR describes the regulations that apply for the NR zone district as follows (in applicable part):

313-5.4		NR: Natural Resources	
Use Type		Principal Permitted Use	
Natural Resource Use Types		Fish and Wildlife Habitat Management	
Use Type		Conditionally Permitted Use	
Residential Use Types		Caretaker’s Residence (allowed only within Humboldt Bay Coastal sand dune areas only)	
Civic Use Types		Minor Utilities	
		Oil and Gas Pipelines; subject to the Oil and Gas Pipelines Regulations	
		Major Electrical Distribution Lines; subject to the Electrical Distribution Lines Regulations	
		Minor Generation and Distribution Facilities	
Industrial Use Types*		Aquaculture; subject to the Coastal-Dependent Industrial Regulations	
Extractive Use Types		Surface Mining - 3; subject to the Surface Mining Regulations	
Natural Resource Use Types		Watershed Management	
		Wetland Management	
		Boating Facilities Improvements	
		Resource-Related Recreation	
		Coastal Access Facilities	
Use Types Not Listed in This Table**		Any use not specifically enumerated in this Division, if it is similar to and compatible with the uses permitted in the NR zone.	

Sections 313-170 through 313-177 of the CZR describe the various use types listed in Section 313-5.4 cited above and states as follows (in applicable part):

...

176.2 Fish and Wildlife Habitat Management. The Fish and Wildlife Habitat Management Use Type refers to the manipulation or maintenance of vegetation or streams, or construction of minor structures to yield desired results in terms of habitat suitable for designated wildlife or fishery species or groups of species. (Former Section CZ#A313-12(B))

Sections 312-17 through 312-49 of the CZR describe the various required and supplemental findings that must be made in order for the County to approve a coastal development permit. The Section states, in applicable part, as follows (emphasis added):

312-17 REQUIRED FINDINGS FOR ALL PERMITS AND VARIANCES

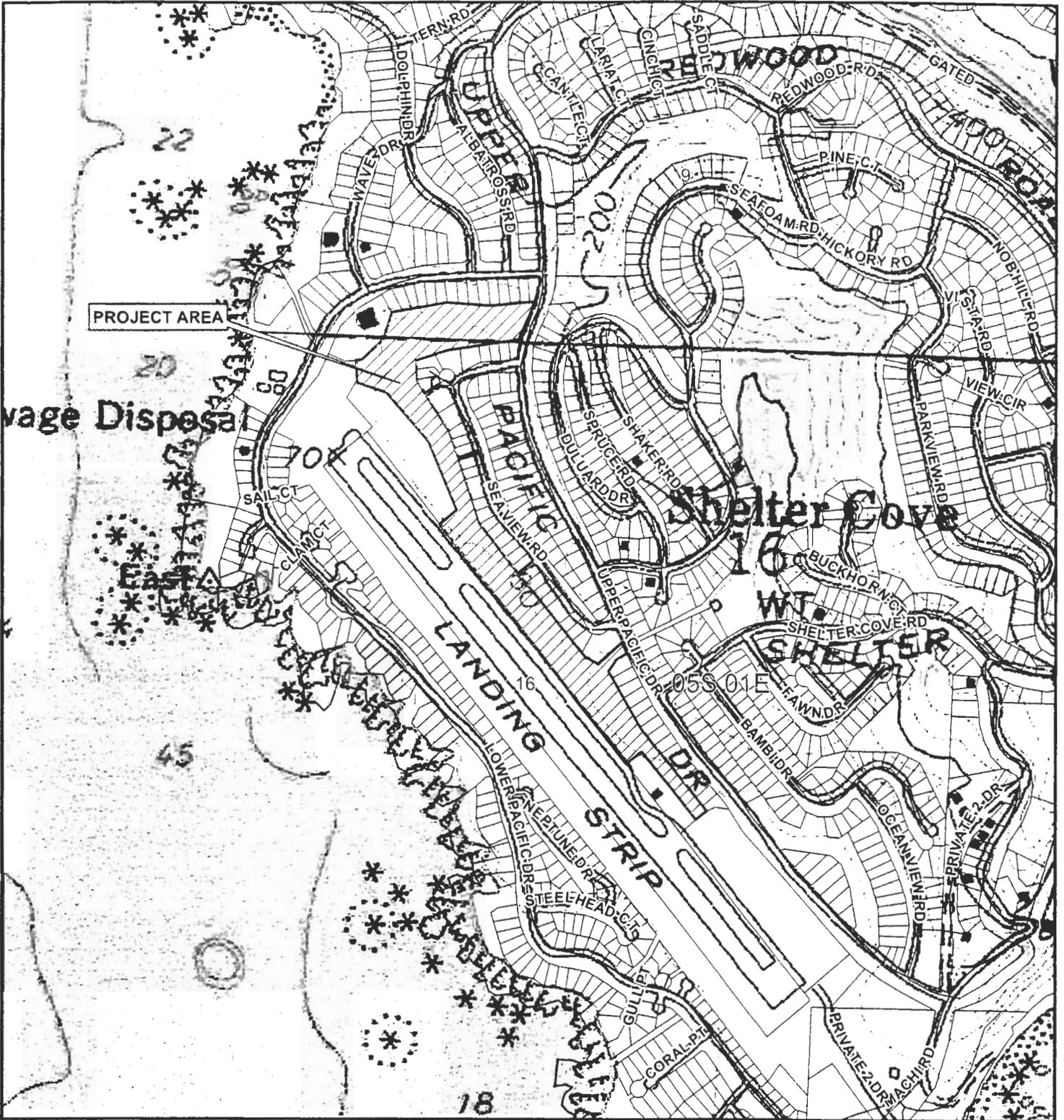
17.1 REQUIRED FINDINGS FOR ALL PERMITS.

Unless waived by State law, the Hearing Officer may approve or conditionally approve an application for a Special Permit, Use Permit, Coastal Development Permit, or Planned Unit Development Permit only if all of the following findings, in addition to any applicable findings in Sections 312-18 through 312-49, Supplemental Findings, are made: (Former Section INL#317-36, 317-40.7; CZ#A315-14; Ord. 946, Sec. 4, 10/2/73; Ord. 1726, Sec. 4, 3/4/86; Amended by Ord. 2214, 6/6/00)

...

17.1.2 The proposed development is consistent with the purposes of the existing zone in which the site is located, or when processed in conjunction with a zone reclassification, is consistent with the purposes of the proposed zone; (Former Section INL#317-36(a), 317-40.7(1); CZ#A315-14(B))

...



Project Area = 

EXHIBIT NO. 2
 APPEAL NO.
 A-1-HUM-10-013
 RESORT IMPROVEMENT
 DISTRICT #1
 VICINITY MAP

This map is intended for display purposes and should not be used for precise measurement or navigation. Data has not been completely checked for accuracy.

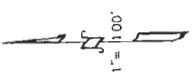
T05S R01E S09 & 16 H B & M



111-07

PTN SECS 9 & 16 T5S R1E H.B. & M.

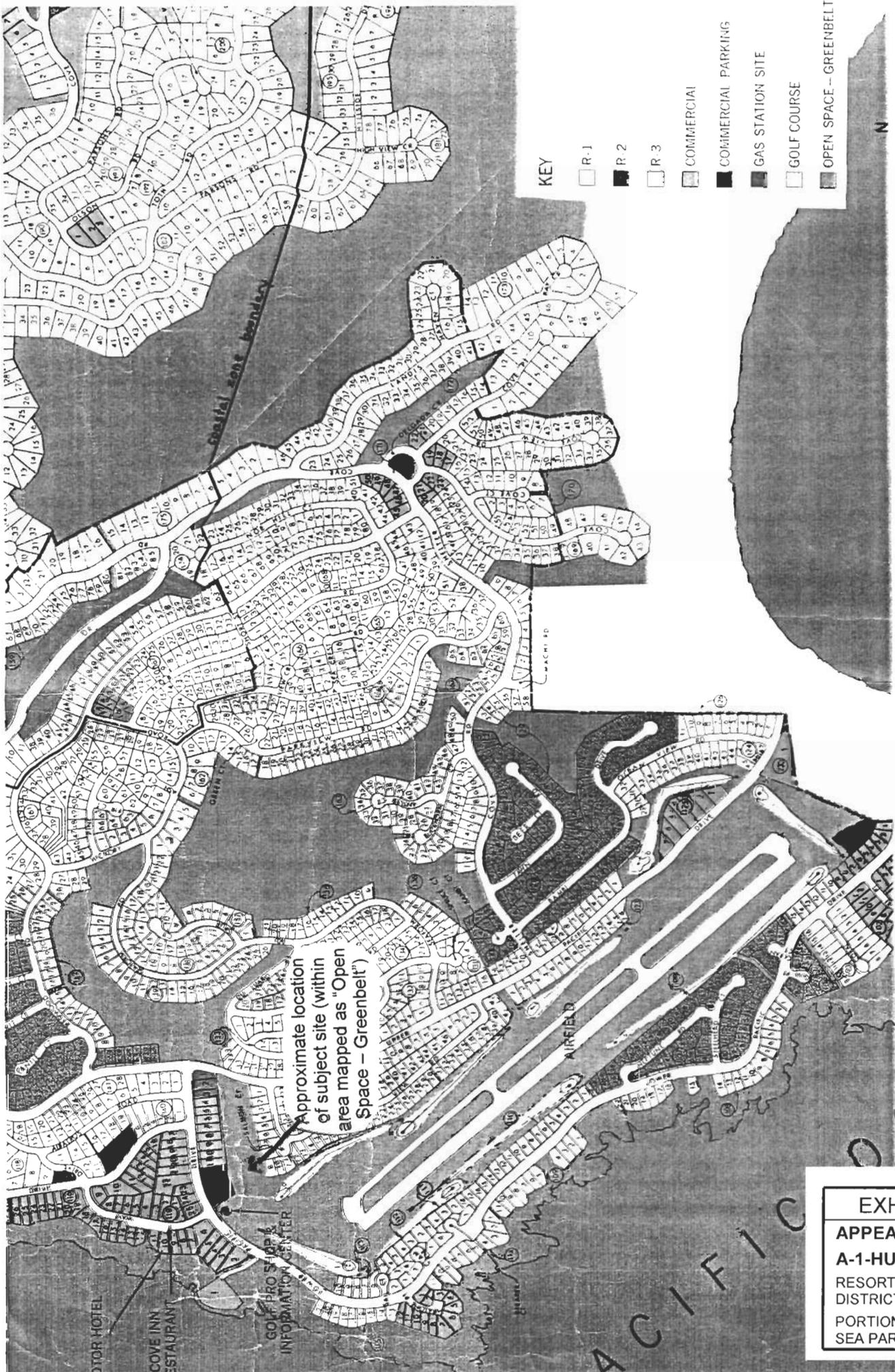
ASSESSOR'S PARCEL MAP
 1 THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY.
 2 THE INFORMATION SHOWN ON THIS MAP IS THE PROPERTY OF THE COUNTY OF HUMBOLDT.
 3 ASSESSOR'S PARCELS MAY NOT BE IDENTIFIED BY THE COUNTY OF HUMBOLDT OR BUILDING SITE ORDINANCES.



NOTE - Assessor's Block Numbers Shown in Ellipses
 Assessor's Parcel Numbers Shown in Circles
 Assessor's Map Bk. 111, Pg. 07
 County of Humboldt, CA.

Tr42, Bk. 14 of MAPS, Pgs 77 & 82
 "Shelter Cove Sub'd"
 RM, Bk. 15 of MAPS, Pg. 70
 RS, Bk. 61 of surveys, Pg. 48

EXHIBIT NO. 3
APPEAL NO.
A-1-HUM-10-013
 RESORT IMPROVEMENT
 DISTRICT #1
 ASSESSOR'S PARCEL MAPS
 (1 of 2)



- KEY**
- R-1
 - R-2
 - R-3
 - COMMERCIAL
 - COMMERCIAL PARKING
 - GAS STATION SITE
 - GOLF COURSE
 - OPEN SPACE - GREENBELT

Approximate location
of subject site (within
area mapped as "Open
Space - Greenbelt")

EXHIBIT NO. 4
APPEAL NO.
A-1-HUM-10-013
 RESORT IMPROVEMENT
 DISTRICT #1
 PORTION OF SHELTER COVE
 SEA PARK SUBDIVISION MAP

SHELTER COVE AREA PLAN

Land Use Designation

- RL Low Density Residential R-L
- RM Medium Density Residential R-M
- CR Commercial Recreational C-R
- CG Commercial General C-G
- PF Public Facility P-F

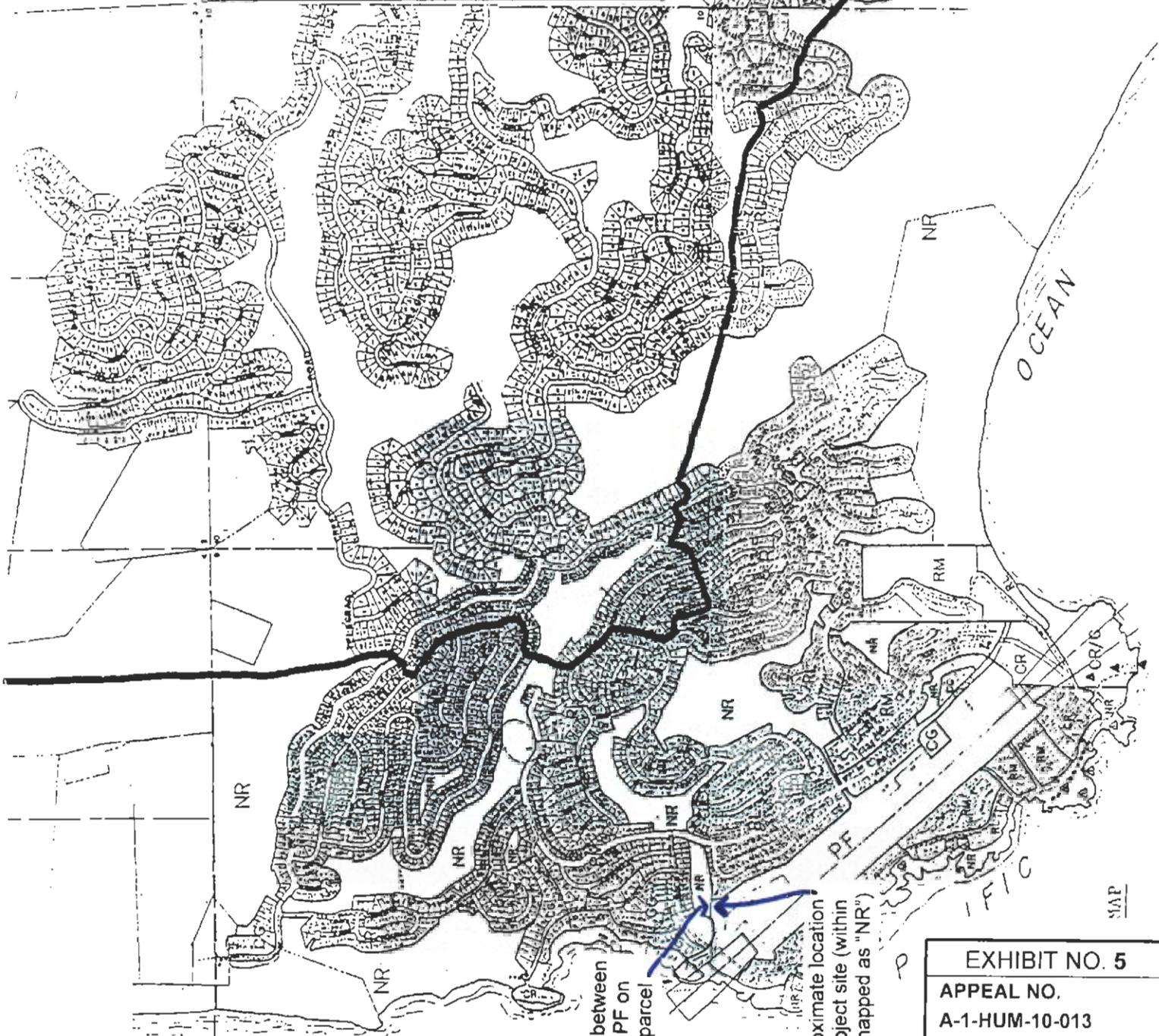
Resource Protection

- NR Natural Resources
- AR Archaeological Resources
- CP Conservancy Project Area

Access

- Coastal Trail
- Vertical Access
- Parking/Information Centers
- View Overlook
- Bluff-top Trail

PLANNING DEPARTMENT
 Local Coastal Program
 APPROVED JULY 1988, AMENDED NOVEMBER 1992
 ADDED RES NO 8018, except geographically disapproved areas



Boundary between NR and PF on subject parcel

Approximate location of subject site (within area mapped as "NR")

EXHIBIT NO. 5
APPEAL NO.
A-1-HUM-10-013
 RESORT IMPROVEMENT DISTRICT #1
 CERTIFIED LAND USE PLAN MAP

1	Min. Lot Size Width Depth	Min. Lot Size Width Depth	Min. Lot Size Width Depth
2	Min. Yard Setbacks Max. Ground Coverage Max. Building Height Bldg. Types	Min. Yard Setbacks Max. Ground Coverage Max. Building Height Bldg. Types	Min. Yard Setbacks Max. Ground Coverage Max. Building Height Bldg. Types
3	Min. Lot Size Width Depth	Min. Lot Size Width Depth	Min. Lot Size Width Depth
4	Min. Yard Setbacks Max. Ground Coverage Max. Building Height Bldg. Types	Min. Yard Setbacks Max. Ground Coverage Max. Building Height Bldg. Types	Min. Yard Setbacks Max. Ground Coverage Max. Building Height Bldg. Types
5	Min. Lot Size Width Depth	Min. Lot Size Width Depth	Min. Lot Size Width Depth
6	Min. Yard Setbacks Max. Ground Coverage Max. Building Height Bldg. Types	Min. Yard Setbacks Max. Ground Coverage Max. Building Height Bldg. Types	Min. Yard Setbacks Max. Ground Coverage Max. Building Height Bldg. Types
7	Min. Lot Size Width Depth	Min. Lot Size Width Depth	Min. Lot Size Width Depth
8	Min. Yard Setbacks Max. Ground Coverage Max. Building Height Bldg. Types	Min. Yard Setbacks Max. Ground Coverage Max. Building Height Bldg. Types	Min. Yard Setbacks Max. Ground Coverage Max. Building Height Bldg. Types

County of Humboldt
ZONING MAP

REVISIONS	9/16/16 11-30-80 1-18-81
Number	1 2 3
Developer	1983 1984 1980
Date of Adoption	9/10/85
Ordinance	1705

SCALE
FG-33

N
A
N
I

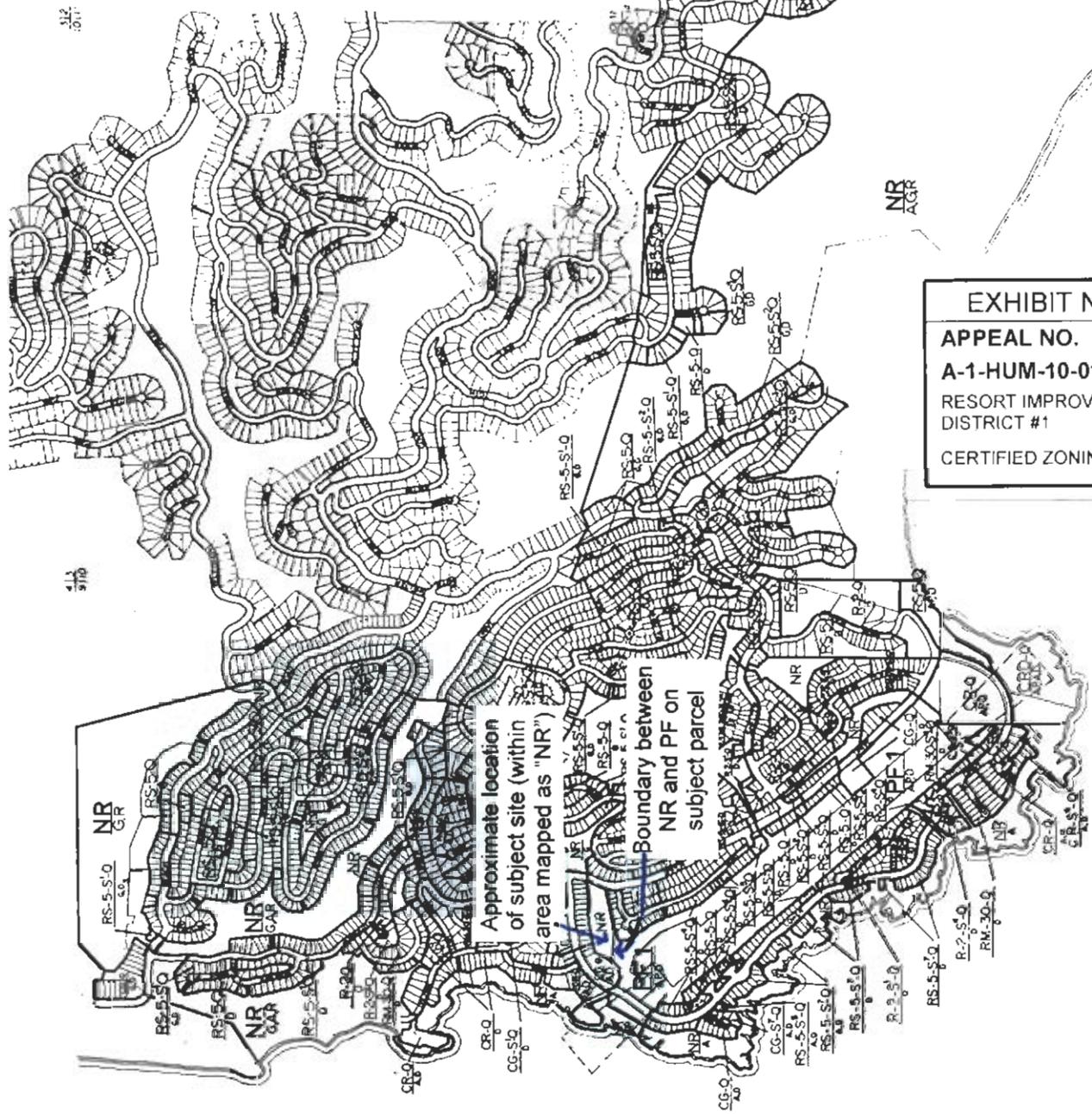


EXHIBIT NO. 6
APEAL NO.
A-1-HUM-10-013
RESORT IMPROVEMENT
DISTRICT #1
CERTIFIED ZONING MAP



Existing storage building

Approximate location of subject site (note that the area appears to have been recently cleared of vegetation)

Approximate location of perennial stream

Golf course

Airstrip

EXHIBIT NO. 7
APPEAL NO.
A-1-HUM-10-013
RESORT IMPROVEMENT
DISTRICT #1
AERIAL PHOTO

Zone district boundary line as approved by the Planning Commission

Approximate location of zone district boundary line as shown on certified zoning map

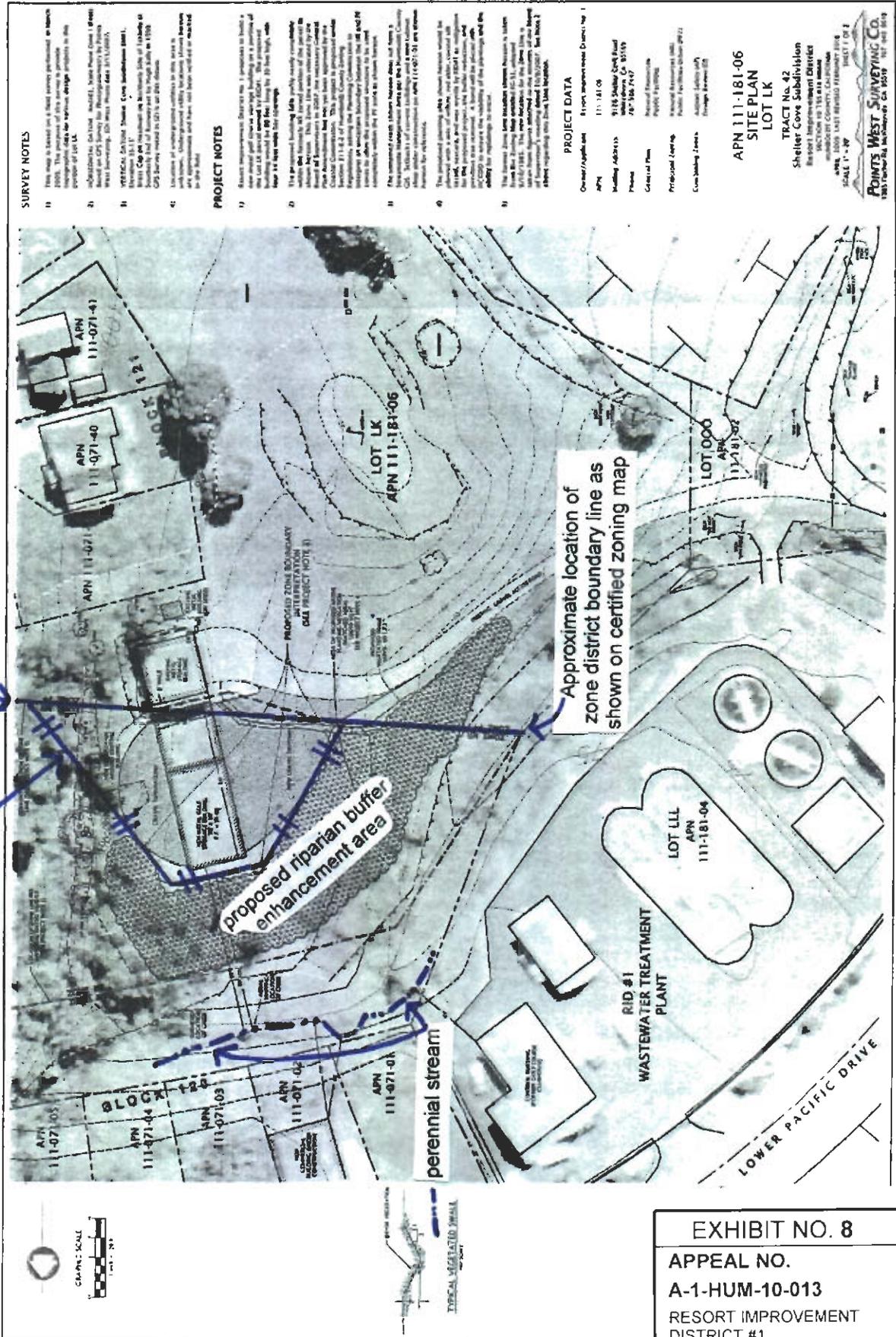


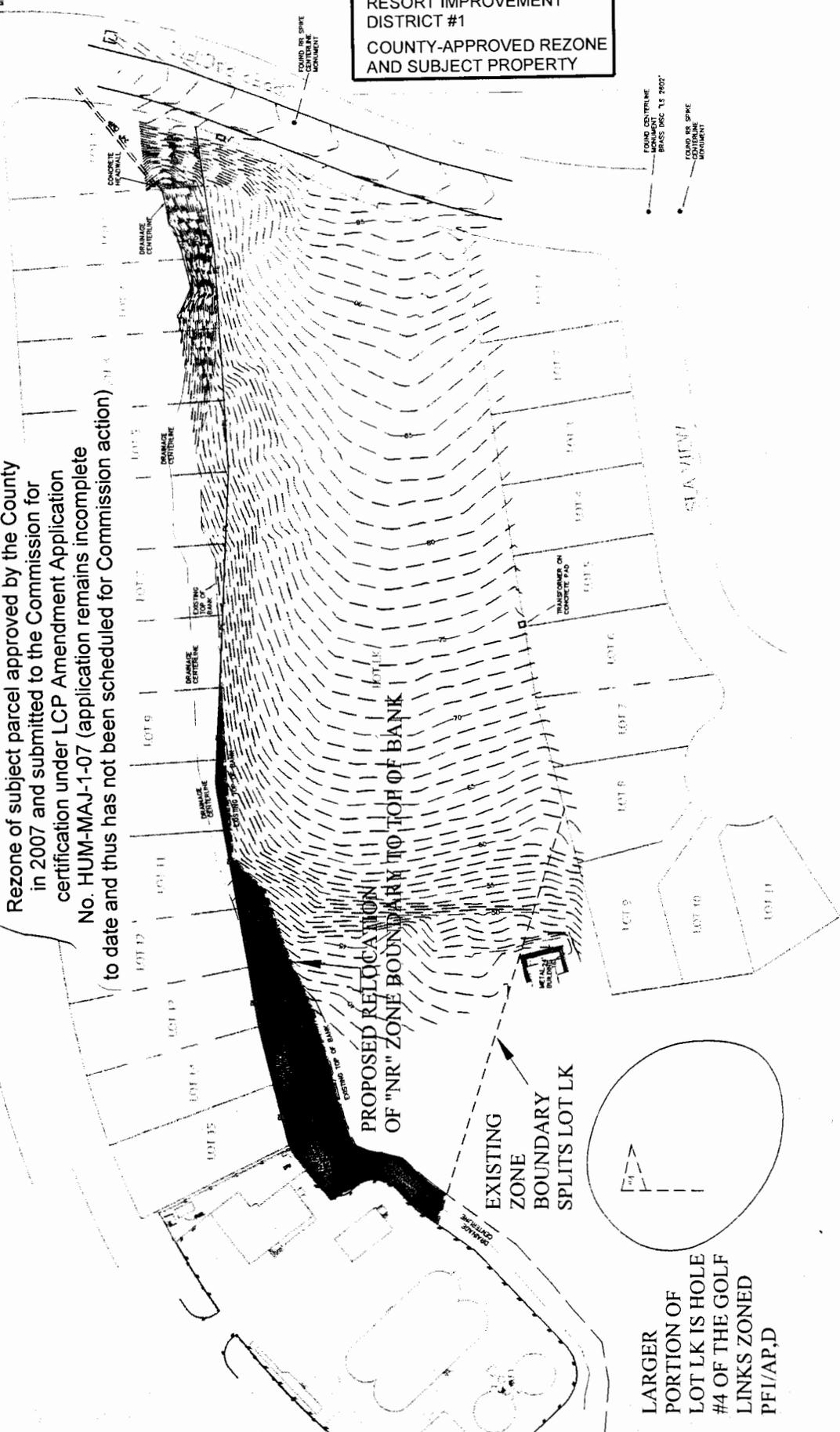
Figure 1

EXHIBIT NO. 9

APPEAL NO.
A-1-HUM-10-013
RESORT IMPROVEMENT
DISTRICT #1
COUNTY-APPROVED REZONE
AND SUBJECT PROPERTY

LOWER PACIFIC

Rezone of subject parcel approved by the County in 2007 and submitted to the Commission for certification under LCP Amendment Application No. HUM-MAJ-1-07 (application remains incomplete to date and thus has not been scheduled for Commission action)



LARGER PORTION OF LOT LK IS HOLE #4 OF THE GOLF LINKS ZONED PFI/AP,D

PROPOSED RELOCATION OF "NR" ZONE LINE THAT CURRENTLY SPLITS LOT LK

THE PROPOSED NEW ZONE BOUNDARY LINE THE TOP OF BANK TO THE POINT OF INTERSECTION WITH THE NORTH PROPERTY LINE OF LOT LK (GREEN SHADED AREA).

THE LARGER REMAINING PORTION OF LOT LK TO REMAIN "PFI/AP,D" AS IS THE BALANCE OF THE LOT ACREAGE.

SHELTER COVE RESORT IMPROVEMENT DISTRICT #1
REQUESTED "NR" ZONE BOUNDARY RELOCATION ON LOT LK
PREPARED BY: RICHARD CULP, P.E. - GENERAL MANAGER
REVISED: NOVEMBER 14, 2006
SCALE: 1" = 100'

CALIFORNIA COASTAL COMMISSION

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

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

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

SECTION I. Appellant(s)

Name: See Attachment A

Mailing Address:

City:

Zip Code:

Phone:

SECTION II. Decision Being Appealed

1. Name of local/port government:

Humboldt County Planning Division

2. Brief description of development being appealed:

Coastal Development Permit No. 09-02 issued to Resort Improvement District #1 for the construction of an approximately 16-foot-tall, 2,400 square-foot storage building used to store maintenance equipment associated with the golf course on Lot LK. The project also includes a determination by the Planning Commission to interpret an uncertain boundary between the Natural Resources (NR) and Public Facilities (PF) zone districts such that the new storage structure will be sited entirely within the PF zone.

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

In Shelter Cove, in between the properties known as 10 Salmon Court & 61 Sea View Road (APN 111-181-006)

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

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

RECEIVED

APR 07 2010

CALIFORNIA
 COASTAL COMMISSION

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-1-HUM-10-013

DATE FILED: 4/7/10

DISTRICT: North Coast

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

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

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

6. Date of local government's decision: March 4, 2010

7. Local government's file number (if any): CDP-09-02

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:

Resort Improvement District #1
Attn: Richard Culp
9126 Shelter Cove Road
Whitethorn, CA 95589

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) Michael Pulley
Points West Surveying Co.
1385 Fischer Road
McKinleyville, CA 95519

(2)

(3)

(4)

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

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

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

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 300 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 100 feet of any wetland or stream, or within 300 feet of the top of the seaward face of any coastal bluff, or those located in a sensitive coastal resource area. Furthermore, developments approved by local governments may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments that 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 stream.

The Humboldt County Planning Commission approved Coastal Development Permit No. 09-02 for the construction of an approximately 16-foot-tall, 2,400 square-foot storage building to be used to store maintenance equipment associated with the golf course on "Lot LK." The approved development is located within the coastal zone, in Shelter Cove, on the west side of Upper Pacific Drive and Sea View Road, on the north end of the golf course, in between the properties known as 10 Salmon Court & 61 Sea View Road (APN 111-181-006). The approved development is located approximately 85 feet from a perennial, unnamed stream that flows through the parcel to the north of the approved building site.

...

(Continued on Attachment B...)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 4

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.)

Note: The above description 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.

SECTION V. Certification

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

Signed: [Signature] **Signature on File**
Appellant or _____

Date: April 7, 2010

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

ATTACHMENT A

SECTION I. Appellant(s)

1. Sara J. Wan
22350 Carbon Mesa Road
Malibu, CA 90265

(415) 904-5200

2. Patrick Kruer
The Monarch Group
7727 Herschel Avenue
LaJolla, CA 92037

(858) 551-4390

ATTACHMENT B

...Continued from Section IV ("Reasons Supporting This Appeal") of Appeal Form

REASONS FOR APPEAL:

The approval of CDP No. 09-02 by Humboldt County is inconsistent with the policies and standards of the certified Local Coastal Program (LCP) including, but not limited to, policies and standards regarding (1) riparian corridor protection; (2) how to resolve uncertainties in zone boundaries; and (3) permitted uses in lands planned and zoned Natural Resources. Each is discussed separately below.

(1) Inconsistency with the LCP policies and standards on riparian corridor protection:

Summary of Applicable LCP Policies:

Land Use Plan (South Coast Area Plan, or SCAP) Policy 3.41E(4) states as follows (emphasis added):

4. Riparian corridors on all perennial and intermittent streams shall be, at a minimum, the larger of the following:
 - a. 100 feet, measured as the horizontal distance from the stream transition line on both sides.
 - b. 50 feet plus four times the average percent of slope, measured as a slope distance from the stream transition line on both sides of intermittent and perennial streams.
 - c. Where necessary, the width of riparian corridors shall be expanded to include significant areas of riparian vegetation adjacent to the corridor, slides, and areas with visible evidence of slope instability, not to exceed 200 feet measured as a horizontal distance.
 - d. In Shelter Cove Sea Park the riparian corridors shall be the same as the 'green belt' areas"

SCAP Policy 3.41E(5) states, in applicable part, as follows (emphasis added):

New development within riparian corridors shall be permitted when there is no less environmentally damaging feasible alternative, where the best mitigation measures feasible have been provided to minimize adverse environmental effects, and shall be limited to the following uses:

- a. Timber management activities...
- b. Timber harvests...
- c. Maintenance of flood control and drainage channels.
- d. Wells...
- e. Road and bridge replacement or construction...
- f. Removal of trees for disease control or public safety purposes.
- g. Removal of firewood...

- h. *Mitigation measures for development within riparian corridors shall, at a minimum, include replanting disturbed areas with riparian vegetation, retaining snags..., and retaining live trees with visible evidence of current use as nesting sites by hawks, owls, eagles, osprey, herons, or egrets.*
- i. *The County shall request the Department of Fish and Game to review plans for development within riparian corridors, the Department may recommend measures to mitigate disruptions to habitats.*

Sections 312-17 through 312-49 of the Coastal Zoning Regulations (CZR) describe the various required and supplemental findings that must be made in order for the County to approve a coastal development permit. The Section states, in applicable part, as follows (emphasis added):

...

17.3 SUPPLEMENTAL FINDINGS

In addition to the required findings for all permits and variances, the Hearing Officer may approve or conditionally approve an application for a Special Permit, Use Permit, Coastal Development Permit, or Planned Unit Development Permit only if the supplemental findings, as applicable, are made...

...

312-39 SUPPLEMENTAL COASTAL RESOURCE PROTECTION IMPACT FINDINGS

...

39.4 COASTAL STREAMS AND RIPARIAN AREAS

39.4.1 There are no significant adverse affects on habitat areas; (Former Section CZ#A315-16(I)(4)(a))

39.4.2 There is no less environmentally damaging feasible alternative; and (Former Section CZ#A315-16(I)(4)(b))

39.4.3 The best mitigation measures feasible have been provided to minimize adverse environmental effects. (Former Section CZ#A315-16(I)(4)(c))

...

Discussion:

The approved development is approximately 85 feet from the centerline of an unnamed perennial stream and within a “green belt” area as shown on the Shelter Cove Sea Park subdivision map. SCAP Policy 3.41E(4) cited above requires that riparian corridors on all perennial and intermittent streams in Shelter Cove Sea Park be the same as the “green belt” areas, which are shown on the Shelter Cove Sea Park subdivision map and on the area plan map shown on page 16 of chapter 4 of the SCAP. There are no provisions in the SCAP that allow for a reduction of the width of the riparian corridor. SCAP Policy 3.41E(5) limits uses within riparian corridors to only those uses enumerated in the policy and in those cases only when there is no less environmentally damaging feasible alternative and where the best mitigation measures feasible have been provided to minimize adverse environmental effects. Section 312-39.4 of the CZR further requires that only development that represents the least environmentally damaging feasible alternative shall be approved by the County for projects within coastal riparian areas.

The protection of environmentally sensitive habitat areas, such as riparian areas, is a matter of regional and statewide concern. The approved development is inconsistent with SCAP Policy 3.41E(5) because, as the approved development is located within a riparian corridor as defined by SCAP Policy 3.41E(4), the approved development, a storage facility for golf course maintenance equipment, is not one of the uses within riparian corridors allowed by SCAP Policy 3.41E(5). Additionally, as the approved development would be located approximately 85 feet from the centerline of a perennial stream, the County's approval did not make findings demonstrating that the approved project represents the least environmentally damaging feasible alternative, as is required by Section 312-39.4 of the CZR.

The County, in its findings for approval of CDP No. 09-02, did not describe the project site as being located within a riparian corridor. Although SCAP Policy 3.41E(4) specifically defines "riparian corridors" within Shelter Cove Sea Park as being coincident with the "green belt" areas, said "green belt" areas are not formally defined anywhere in the certified LCP. Instead, the subdivision map for the Shelter Cove Sea Park, a 4,715-lot subdivision originally approved by the County in the mid-1960s prior to enactment of coastal development permit regulations, shows areas labeled "Open Space – Greenbelt" throughout the subdivision which mirror those same areas planned and zoned "NR" under the certified LCP on the area plan map in the SCAP (chapter 4, page 16) and on zoning map "F,G-33," with the exception of the air strip and surrounding golf course, which is shown as an "Open Space – Greenbelt" area on the subdivision map and is planned and zoned "PF" under the certified LCP. Thus, although there may be some problems associated with SCAP Policy 3.41E(4) defining all "green belt" areas in Shelter Cove Sea Park as "riparian corridors" since at least one such area (the air strip and adjacent golf course) serves public facilities uses and lacks riparian vegetation, the subject site is unambiguously within a riparian corridor since (1) it is within 100 feet of a perennial stream, (2) SCAP Policy 3.41E(4)(a) through (c) generally specifies a minimum width of 100 feet on each side of the stream for riparian corridors on all perennial and intermittent streams, and (3) the site is planned and zoned for Natural Resources uses under the certified LCP, as are the vast majority of the "green belt" areas in Shelter Cove.

(2) Inconsistency with the LCP policies and standards on how to resolve uncertainties in zone boundaries:

Summary of Applicable LCP Policies:

Section 311.8, "*Uncertainties in Zone Boundaries; How to Resolve*," of the certified CZR states, in applicable part, as follows (emphasis added):

...

8.2 Scale on Map; Determination by Commission. *Where the property is indicated on a zoning map or maps as acreage and not subdivided into lots and blocks, or where the zone boundary lines are not approximately street, alley or lot lines, the zone boundary lines on said zoning map or maps shall be determined by scale contained on such map or maps, and where uncertainty exists, the zone boundary line shall be determined by the Planning Commission. In the event property shown as acreage on the zoning map or maps has been or is subsequently subdivided into lots or lot and block arrangement does not conform to that anticipated when the zone boundaries were established, the Planning Commission, after notice to the owners of the property affected thereby, may interpret the zone maps in such a way as to implement the intent*

and purpose of these regulations and conform to the street, block and lot layout on the ground. Such interpretation shall be by written decision, and thereafter the copies of the zoning maps shall be changed to conform thereto. (Former Section INL#313-5(c); CZ#A311-10 (B); Ord. 519, Sec. 305, 5/11/65; Ord. 1705, 9/10/85; Amended by Ord. 2214, 6/6/00)

...

Discussion:

Section 311.8.2 of the CZR provides for the determination, in certain situations, of an uncertain zone boundary line on properties indicated on a zoning map or maps by using the “*scale contained on such map or maps, and where uncertainty exists, ... by the Planning Commission.*”

Humboldt County CDP No. 09-02 issued to Resort Improvement District #1 permits the construction of an approximately 16-foot-tall, 2,400 square-foot storage building used to store maintenance equipment associated with the golf course on Lot LK (i.e., on a portion of the approximately 12.5-acre subject parcel that falls within the “Public Facilities” land use and zoning designation, as described below). The approved project also includes the determination of an “uncertain” boundary between the Natural Resources (NR) and Public Facilities (PF) zone districts such that the new storage structure will be sited entirely within the PF zone. The County determined the uncertain boundary line in a manner that mirrors the approved site plan for the new storage building, so that the zone boundary line, which generally appears in an east-west orientation on the certified zoning map, was interpreted to bubble out northward around an approximately 8,000-square-foot area that represents the approved building footprint for the approved storage facility and driveway extension areas.

The approved development is located on APN 111-181-06 (also known as “Lot LK” of the Shelter Cove Sea Park subdivision), which is an approximately 12.5-acre parcel with split land use and zone district designations under the certified LCP. The northern portion of the parcel, which includes portions of a perennial watercourse, is planned and zoned “Natural Resources” (NR). The southern portion of the parcel, which borders the air strip and contains the golf course, is planned and zoned “Public Facilities” (PF).

The site of the approved development lies near the boundary between the NR and PF zone districts as shown on certified zoning map “F,G-33.” Upon close examination of the zoning map (in conjunction with examination of the Assessor’s parcel map (Bk. 111, Pg. 07) detailing parcel numbers and street names), the zone boundary line appears to be a more-or-less straight line in an approximately east-west orientation extending approximately due westward from the north side of APN 111-071-71 located on Salmon Court. It is unclear where precisely the boundary line between the NR and PF zone districts on the subject parcel adjoins with the northern boundary line of APN 111-071-71 – whether it adjoins somewhere in the middle of northern boundary line of APN 111-071-71 or at its northeast corner. But what is unquestionably clear is that the boundary line between the NR and PF zone districts extends in an approximately straight fashion, approximately due westward across the subject parcel from its junction with the northern boundary line of APN 111-071-71 for approximately 300 feet till its junction with the eastern boundary line of APN 111-181-04 (also known as “Lot LLL”). Examining the site plan approved under County CDP No. 09-02 in conjunction with the certified zoning map and

Assessor's parcel map, it appears that the boundary line between the NR and PF zone districts on the subject parcel runs approximately through the middle of the existing metal building located immediately south of the approved building site for the new storage facility (with the NR zone district to the north of the line and the PF zone district to the south).

The County's approval is inconsistent with Section 311.8.2 of the certified CZR, which states that uncertainty in zone boundary lines, which are not approximately street, alley, or lot lines, shall be determined by the scale contained on the zoning map. In this case, as described above, although it is difficult to positively identify using zoning map "F,G-33" the precise points where the zone boundary line in question bisects the northern boundary of APN 111-071-71 and the eastern boundary of APN 111-181-04, the location of the line can and should be approximated from the zoning map. Under Section 311.8.2, the Planning Commission would have the discretion to determine the specific locations of the uncertain points of bisection with APN 111-071-71 and APN 111-181-04. However, Section 311.8.2 of the CZR does not give the Planning Commission discretion to reshape or reorient zone boundary lines to accommodate specific developments, as it did in its interpretation of the "uncertain" zone boundary line in a manner that mirrors the approved site plan for the new storage building, so that the zone boundary line, which appears to lie in an east-west orientation on the certified zoning map, was "interpreted" to bubble out northward around an approximately 8,000-square-foot area that represents the approved building footprint for the approved storage facility and driveway extension areas. Therefore, the County's determination of the "uncertain" zone boundary line between NR and PF at the subject site is inconsistent with CZR Section 311.8.2.

(3) Inconsistency with the LCP policies and standards on permitted uses in lands planned and zoned "Natural Resources" (NR):

Summary of Applicable LCP Policies:

SCAP Section 4.40, "Area Plan Maps," chapter 4, page 16, depicts the land use designation for the subject site as "NR: Natural Resources."

SCAP Section 5.20, "Urban Plan Designations," lists the following standards that apply to lands designated "Natural Resources:"

Purpose: to protect and enhance valuable fish and wildlife habitats, and provide for public and private use of their resources, including hunting, fishing, and other forms of recreation.

Principal Use: management for fish and wildlife habitat.

Conditional Uses: wetland restoration, development of hunting blinds and similar minor facilities, improvement of boating facilities in estuaries consistent with applicable policies of the plan, and removal of trees for disease control and public safety purposes.

The certified zoning map "F,G-33" depicts the zoning district for the subject site as "NR: Natural Resources."

Section 313-5.4 of the CZR describes the regulations that apply for the NR zone district as follows (in applicable part):

313-5.4		NR: Natural Resources	
Use Type		Principal Permitted Use	
Natural Resource Use Types		Fish and Wildlife Habitat Management	
Use Type		Conditionally Permitted Use	
Residential Use Types		Caretaker's Residence (allowed only within Humboldt Bay Coastal sand dune areas only)	
Civic Use Types		Minor Utilities	
		Oil and Gas Pipelines; subject to the Oil and Gas Pipelines Regulations	
		Major Electrical Distribution Lines; subject to the Electrical Distribution Lines Regulations	
		Minor Generation and Distribution Facilities	
Industrial Use Types*		Aquaculture; subject to the Coastal-Dependent Industrial Regulations	
Extractive Use Types		Surface Mining - 3; subject to the Surface Mining Regulations	
Natural Resource Use Types		Watershed Management	
		Wetland Management	
		Boating Facilities Improvements	
		Resource-Related Recreation	
		Coastal Access Facilities	
Use Types Not Listed in This Table**		Any use not specifically enumerated in this Division, if it is similar to and compatible with the uses permitted in the NR zone.	

Sections 313-170 through 313-177 of the CZR describe the various use types listed in Section 313-5.4 cited above and states as follows (in applicable part):

...

176.2 Fish and Wildlife Habitat Management. *The Fish and Wildlife Habitat Management Use Type refers to the manipulation or maintenance of vegetation or streams, or construction of minor structures to yield desired results in terms of habitat suitable for designated wildlife or fishery species or groups of species. (Former Section CZ#A313-12(B))*

Sections 312-17 through 312-49 of the CZR describe the various required and supplemental findings that must be made in order for the County to approve a coastal development permit. The Section states, in applicable part, as follows (emphasis added):

312-17 REQUIRED FINDINGS FOR ALL PERMITS AND VARIANCES

17.1 REQUIRED FINDINGS FOR ALL PERMITS.

Unless waived by State law, the Hearing Officer may approve or conditionally approve an application for a Special Permit, Use Permit, Coastal Development Permit, or Planned Unit Development Permit only if all of the following findings, in addition to any applicable findings in Sections 312-18 through 312-49, Supplemental Findings, are made: (Former Section INL#317-36, 317-40.7; CZ#A315-14; Ord. 946, Sec. 4, 10/2/73; Ord. 1726, Sec. 4, 3/4/86; Amended by Ord. 2214, 6/6/00)

...

17.1.2 The proposed development is consistent with the purposes of the existing zone in which the site is located, or when processed in conjunction with a zone reclassification, is consistent with the purposes of the proposed zone; (Former Section INL#317-36(a), 317-40.7(1); CZ#A315-14(B))

Discussion:

As discussed above, the boundary line between the NR and PF zone districts on the subject parcel lies somewhere south of the approved building site for the new storage facility, perhaps approximately through the middle of the existing metal building located immediately south of the approved development site, with the NR zone district to the north of the boundary line and the PF zone district to the south. Thus, the development approved by the County under CDP No. 09-02 is located on land planned and zoned for Natural Resources uses.

The above-cited policies list the standards and uses that apply to the Natural Resources (NR) land use and zoning designations in the certified LCP. Principal uses allowed on lands designated and zoned NR are limited to those associated with fish and wildlife habitat management (e.g., *“the manipulation or maintenance of vegetation or streams, or construction of minor structures to yield desired results in terms of habitat suitable for designated wildlife or fishery species or groups of species”*). Conditional uses allowed on lands designated NR under the certified SCAP include *wetland restoration, development of hunting blinds and similar minor facilities, improvement of boating facilities in estuaries consistent with applicable policies of the plan, and removal of trees for disease control and public safety purposes*. Conditional uses allowed on lands zoned NR under the certified zoning regulations include various residential, civic, industrial, extractive, and natural resource use types. However, the development of a storage facility for golf course maintenance equipment is neither one of the principally permitted nor conditionally permitted use types allowed in the NR land use and zone district under the certified LCP. Therefore, the County’s approval is inconsistent with SCAP Section 5.20 and Sections 312.17.1.2 and 313-5.4 of the CZR.



COMMUNITY DEVELOPMENT SERVICES
PLANNING DIVISION
COUNTY OF HUMBOLDT

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

March 19, 2010

Appealable Status: APPEALABLE

CALIFORNIA COASTAL COMMISSION
Eureka Office
710 E Street, Suite 200
Eureka, CA 95501

EXHIBIT NO. 11
APPEAL NO. A-1-HUM-10-013 - RESORT IMPROVEMENT DISTRICT #1 NOTICE OF FINAL LOCAL ACTION & COUNTY FINDINGS (EXCERPT) (1 of 36)

Subject: Coastal Development Permit & Special Permit
Notice of Action Taken
Notice of Appeal Period Completed

Contact: Trevor Estlow

APPLICANT(S):

Resort Improvement District #1
Richard Culp
9126 Shelter Cove Road
Whitehorn, CA 95589

PERMIT(S) FOR APN(S) #111-181-06

Coastal Development Permit-CDP-⁰⁹⁻⁰²~~05-02~~ & Special Permit-SP-09-03

APPEAL COMPLETION:

The appeal period for this project has been completed and no appeal has been requested.

ACTION TAKEN:

Following a noticed public hearing, the Humboldt County Planning Commission approved the referenced application on March 4, 2010.

EFFECTIVE DATE:

Coastal Development Permit and Special Permit will become effective at the end of the California Coastal Commission appeal period and will expire 12 months from the effective date.

RECEIVED
MAY 23 2010
CALIFORNIA
COASTAL COMMISSION



COMMUNITY DEVELOPMENT SERVICES
PLANNING DIVISION
COUNTY OF HUMBOLDT

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

RECEIVED
MAR 09 2010
CALIFORNIA
COASTAL COMMISSION

Planning Division Permit Approval Packet

Congratulations, your Planning Division permit(s) have been approved. **Review the enclosed permit approval packet carefully.** The packet contains important information such as appeal periods, permit conditions and the expiration date for your permit(s). Please take particular note of the following:

1. Your permit is subject to one or more appeal periods. Your permit is not effective until all appeal periods have ended. See appeals procedure information included in this packet.
2. All permit conditions must be completed prior to the expiration date. Your permit(s) may also include conditions from other state or local agencies. If you have questions or need assistance, please contact the specific agency or department that issued the conditions.
3. Proof of completion is required for most permit conditions. For efficient staff review of condition completion, please consolidate proof of completion for all conditions into one submittal package.
4. You are responsible for tracking the expiration date of your permit(s). An extension process is available if you need more time.
5. Additional federal, state or local regulatory requirements may apply to your project. These requirements may be administered by agencies other than the Planning Division including any Mitigation Monitoring. It is your responsibility to obtain all necessary approvals before commencing your project.
6. Call your assigned planner if you have any questions. Your assigned planner's card is attached below.

2 of 36

cc: Agent Owner



COUNTY OF HUMBOLDT
COMMUNITY DEVELOPMENT SERVICES
PLANNING DIVISION (707) 445-7541

TREVOR ESTLOW
SENIOR PLANNER

VOICE: (707) 268-3740
FAX: (707) 445-7446
trestlow@co.humboldt.ca.us

3015 H STREET
EUREKA, CA 95501



COMMUNITY DEVELOPMENT SERVICES
PLANNING DIVISION
COUNTY OF HUMBOLDT

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

March 8, 2010

NOTICE OF PLANNING COMMISSION DECISION

APPLICANT(S):

Resort Improvement
District #1
Richard Culp
9126 Shelter Cove Road
Whitehorn, CA 95589

OWNER(S):

(Same as Applicant)

AGENT:

Points West Surveying
Michael Pulley
1385 Fisher Road
McKinleyville, CA 95519

PERMIT(S) FOR APN #111-181-06

Coastal Development Permit - CDP-09-02

PROJECT DESCRIPTION:

A Coastal Development Permit and Special Permit for the construction of an approximately 2,400 square foot storage building used to store maintenance equipment associated with the golf course (Lot LK). The structure will be approximately 16 feet tall and constructed of non-reflective metal siding and roofing. The structure will be located approximately 86 feet from a perennial stream and a native planting plan is proposed along the stream corridor that will enhance the buffer and provide additional habitat. The project includes a request for a determination by the Planning Commission, pursuant to Section 311-8.2 of the Humboldt County Zoning Regulations, to interpret an uncertain boundary between the Natural Resources (NR) and Public Facilities (PF) Zones such that the proposed structure will be sited entirely within the PF zone. In September 2007, the Board of Supervisors determined that the mapping of the boundary between the NR and PF zoned portions of Lot LK was done in error. A Special Permit is required for Design Review.

DECISION:

The project was approved by the Planning Commission on March 4, 2010 by Resolution 10-03 and is subject to the attached conditions. Please review these conditions because other permits may be required before the project commences. *In accordance with County Code, this approval may be revoked or rescinded, in whole or in part, if certain grounds are found to exist (See Humboldt County Code §312-14)*

APPEALS:

This project may be appealed by any aggrieved person within 10 working days. The last day to appeal to Board of Supervisors is 5 PM, March 18, 2010. Additional information regarding appeals is included with this notice.

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

EFFECTIVE DATE:

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

EXPIRATION DATE:

You will receive an expiration letter stating the effective date and the expiration date at the end of the Coastal Commission appeal period.

EXTENSIONS:

If the conditions for your project cannot be met before the expiration date, you may apply for an extension with the Planning Division. Extension applications must be submitted with the appropriate fees before the permit expiration date. If the permit expires, a new permit application must be filed and accompanied by applicable fees. The new permit may be subject to different processing requirements and standards. Contact your assigned planner if you have any questions about extensions.

CHANGES OR MODIFICATIONS TO YOUR PROJECT:

If your project needs minor changes or major modifications, review and approval of the project by the Planning Division is required. Applications for changes or modifications must be filed and accompanied by applicable fees. Contact your assigned planner if you think your project needs to be changed or modified.

6/11

RESORT IMPROVEMENT DISTRICT

APN: 111-181-06 (Shelter Cove area)

Case Nos.: CDP-09-02/SP-09-03



COMMUNITY DEVELOPMENT SERVICES
PLANNING DIVISION
COUNTY OF HUMBOLDT

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

DATE: January 25, 2010
TO: Humboldt County Planning Commission
FROM: Kirk Girard, Director of Community Development Services
SUBJECT: **RESORT IMPROVEMENT DISTRICT** Coastal Development Permit and Special Permit
Case Nos.: **CDP-09-02/SP-09-03**
APN: **111-181-06** Shelter Cove Area

The attached *revised* staff report has been prepared for your consideration of the Resort Improvement District application at the public hearing on March 4, 2010. The staff report includes the following:

Table of Contents	Page
Agenda Item Transmittal Form	1
Recommended Commission Action and Executive Summary	2
Draft Planning Commission Resolution	4
Maps	5
Vicinity Map	6
Zoning Map	7
Assessor Parcel Map	8
Aerial Photo	insert
Project Proposal Map	insert
Attachments	
Attachment 1: Recommended Conditions of Approval	9
Attachment 2: Staff Analysis of Required Findings for CDP/SP	12
Attachment 3: Applicant's Evidence Supporting the Findings	23
Attachment 4: Referral Agency Comments	34
Attachment 5: Draft Initial Study and Mitigated Negative Declaration	39
Attachment 6: Section 311-8 of the Humboldt County Zoning Regulations	62

Please contact Trevor Estlow, Senior Planner, at 268-3740 if you have any questions about the scheduled public hearing item.

cc: Applicant, Agent

AGENDA ITEM TRANSMITTAL

TO: HUMBOLDT COUNTY PLANNING COMMISSION

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

HEARING DATE: March 4, 2010	SUBJECT: COASTAL DEVELOPMENT PERMIT & SPECIAL PERMIT	CONTACT: Trevor Estlow
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Before you is the following:

PROJECT: A Coastal Development Permit and Special Permit for the construction of an approximately 2,400 square foot storage building used to store maintenance equipment associated with the golf course (Lot LK). The structure will be approximately 16 feet tall and constructed of non-reflective metal siding and roofing. The structure will be located approximately 86 feet from a perennial stream and a native planting plan is proposed along the stream corridor that will enhance the buffer and provide additional habitat. The project includes a request for a determination by the Planning Commission, pursuant to Section 311-8.2 of the Humboldt County Zoning Regulations, to interpret an uncertain boundary between the Natural Resources (NR) and Public Facilities (PF) Zones such that the proposed structure will be sited entirely within the PF zone. In September 2007, the Board of Supervisors determined that the mapping of the boundary between the NR and PF zoned portions of Lot LK was done in error. A Special Permit is required for Design Review.

PROJECT LOCATION: The project site is located in Humboldt County, in the Shelter Cove area, on the west side of Upper Pacific Drive and Sea View Road, on the north end of the golf course and will access through an existing encroachment off of Lower Pacific Drive, just south of the water treatment plant.

PRESENT PLAN DESIGNATIONS: Natural Resources; Public Facilities (NR; PF). South Coast Area Plan (SCAP).

PRESENT ZONING: Natural Resources; Public Facilities (Urban) in addition to Airport Safety Review and Design Review combining zones (NR; PF1/AP,D).

ASSESSOR PARCEL NUMBER: 111-181-06

APPLICANT

Resort Improvement District #1
Richard Culp
9126 Shelter Cove Road
Whitethorn, CA 95589
Phone: (707) 986-7447

OWNER(S)

same as applicant

AGENT

Points West Surveying
Michael Pulley
1385 Fischer Road
McKinleyville, CA 95519
(707) 840-9510

ENVIRONMENTAL REVIEW:

Project requires environmental review.

MAJOR ISSUES

Streamside Management Area

STATE APPEAL STATUS:

Project is appealable to the California Coastal Commission.

RESORT IMPROVEMENT DISTRICT COASTAL DEVELOPMENT PERMIT AND SPECIAL PERMIT

Case Numbers: CDP-09-02/SP-09-03

APN: 111-181-06

RECOMMENDED COMMISSION ACTION:

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

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

EXECUTIVE SUMMARY

The project involves a Coastal Development Permit for the proposed construction of a 2,400 square foot metal storage building on a concrete slab. The 16 foot high building would be constructed next to an existing 900 square foot storage building and made of similar non-reflective, painted siding and roofing material. The storage building will house a tractor and chip truck currently used for maintenance of the golf course as well as other mowing equipment. A Special Permit is required for Design Review. The area to be developed is relatively flat and will require minimal grading. Standard conditions requiring implementation of best management practices for erosion control have been applied.

The project includes a request for a determination by the Planning Commission, pursuant to Section 311-8.2 of the Humboldt County Zoning Regulations, to interpret an uncertain boundary between the Natural Resources (NR) and Public Facilities (PF) Zones such that the proposed structure will be sited entirely within the PF zone. It has been determined that the mapping of the boundary between the Natural Resources (NR) and Public Facilities (PF) portions was done in error and is in the process of being corrected through a Local Coastal Plan (LCP) amendment. The Board approved the amendment on September 25, 2007, and forwarded the proposal to the California Coastal Commission on December 11, 2007. At this point, the LCP amendment is awaiting final approval and certification from the Coastal Commission. Section 311-8.2 allows the Planning Commission to determine the zone boundary when it is uncertain. The boundary is proposed to just include the proposed structure within the PF zone with the remaining lands zoned NR. Upon certification by the Coastal Commission, the zone will be more formally described.

According to the Board Report prepared for the September 25, 2007 Board hearing, the change from an NR Plan designation to PF of a ±1.2 acre portion of the property corrects an error in the Plan. The proposed amendment will continue to protect an existing drainage basin by retaining the NR designation along a 50 foot wide corridor that encompasses the southern slope of the entire drainage 15 feet back from the top of the slope. Attachment 3 shows the area proposed to be changed to PF. The area to be redesignated is a flat upland area with grasses and a sparse tree cover, and the portion of the site being retained NR is a drainage that, although not mapped as a perennial or intermittent stream, appears to have dense vegetation with shrubs and trees. According to the District, the portion of this parcel being changed by the approved request is the largest and flattest piece of greenbelt property the District owns that is not encumbered in some way by proximity to the airport.

The building will be constructed approximately 86 feet from the centerline of the unnamed stream that flows to the north of the proposed structure. The South Coast Area Plan (SCAP) identifies the riparian corridor as 100 feet on each side of an intermittent or perennial stream, however, in the Shelter Cove Sea Park, the riparian areas were limited to "green belt" areas. Because no standard setbacks are associated with the Shelter Cove subdivision, the 1981 Statewide Interpretive Guidelines for Environmentally Sensitive Habitats provide criteria for establishing buffer areas. Planning Staff has relied on these guidelines in determining appropriate riparian buffer setbacks and appropriate mitigation for the project. A site visit was conducted by Planning Staff and a representative from the California Department of Fish and

Game (DFG). After reviewing the proposal, a planting plan was prepared by the applicant that will provide additional canopy and riparian vegetation in order to improve the habitat values associated with the creek. The planting plan contains a mix of willows, cascara, red alder, wax myrtle and silk tassel and has been reviewed and approved by DFG. In addition, a split rail fence will be constructed along the edge of the plantings in order to keep vehicles and pedestrians out of the creek and provide a visual barrier as well. Given that the South Coast Area Plan (SCAP) does not have a formally defined wetland or riparian buffer, each project is reviewed on a case by case basis. This project, with the planting plan and approval by DFG, can be found consistent with the policies of the SCAP.

The parcel is currently planned and zoned for both Public Facilities and Natural Resources, however, the approve amendment to the Local Coastal Plan will change the area to be developed to Public Facilities. The project is consistent with the zones that will apply to the property for the following reasons: 1) the project is for the development of a storage building accessory to the golf course which is a principally permitted use in the 'PF' zone, 2) the proposed development complies with all development standards of the zone, 3) the proposed structure meets all of the specified architectural standards for Design Review in Shelter Cove, 4) the riparian buffer is consistent with the 1981 Statewide Interpretive Guidelines for Environmentally Sensitive Habitats; and 5) the proposed development is compatible with the scale and character of existing development in the immediate vicinity. The Department believes that the draft Mitigated Negative Declaration adequately addresses all environmental concerns pursuant to the California Environmental Quality Act (CEQA).

Based on the on-site inspection, a review of Planning Division reference sources, and comments from all involved referral agencies, Planning staff believes that the applicant has submitted evidence in support of making all of the required findings for approving the Coastal Development Permit and Special Permit.

ALTERNATIVES: The Planning Commission could elect not to approve the project. This alternative should be implemented if your Commission is unable to make all of the required findings. Planning Division staff is confident that the required findings can be made. Consequently, planning staff does not recommend further consideration of this alternative.

RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT
Resolution Number 10-03

MAKING THE REQUIRED FINDINGS FOR CERTIFYING COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND CONDITIONALLY APPROVING THE RESORT IMPROVEMENT DISTRICT COASTAL DEVELOPMENT PERMIT AND SPECIAL PERMIT APPLICATION:
CASE NUMBERS CDP-09-02/SP-09-03
ASSESSOR PARCEL NUMBER: 111-181-06

WHEREAS, Points West Surveying, agents for the Resort Improvement District, submitted an application and evidence in support of approving a Coastal Development Permit and Special Permit to allow for the development of a storage building; and

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

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

WHEREAS, the County Planning Division prepared a draft Mitigated Negative Declaration included in Attachment 5; and

WHEREAS, Attachment 2 in the Planning Division staff report includes evidence in support of making all of the required findings for approving the proposed subdivision;

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

- (1) The Planning Commission adopts the proposed Mitigated Negative Declaration in Attachment 5 as required by Section 15074(b) of the CEQA Guidelines, and finds that there is no substantial evidence that the proposed project will have a significant effect on the environment.
- (2) The Planning Commission further makes the findings in Attachment 2 of the Planning Division staff report for Case Nos. **CDP-09-02/SP-09-03** based on the submitted evidence.
- (3) The Planning Commission approves the proposed project applied for as recommended and conditioned in Attachment 1 for Case Nos. **CDP-09-02/SP-09-03**.
- (4) The Planning Commission approves the Zone Boundary Interpretation pursuant to H.C.C. §311-8.2 and directs that the Planning Division amend the Zoning Map to reflect the plot plan for Case No. **CDP-09-02/SP-09-03** as the boundary between the PF and NR zones to reflect this interpretation.

Adopted after review and consideration of all the evidence on March 4, 2010.

The motion was made by COMMISSIONER EMAD and seconded by COMMISSIONER MAYO

AYES: Commissioners: Mel Kreb, Jeffrey Smith, Dennis Mayo, Bruce Emad, & Mary Gearheart

ABSTAIN: Commissioner: Ralph Faust

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

Kirk Girard, Community Development Services Director

By:


Norma Lorenzo, Interim Clerk

ATTACHMENT 1
RECOMMENDED CONDITIONS OF APPROVAL

APPROVAL OF THE COASTAL DEVELOPMENT PERMIT AND SPECIAL PERMIT ARE CONDITIONED UPON THE FOLLOWING TERMS AND REQUIREMENTS:

1. The current entrance on Lower Pacific Drive currently meets County standards. If the applicant chooses to utilize the access from Salmon Court, applicant must apply for and obtain an encroachment permit for the driveway from Salmon Court. The permit will require the driveway entrance to be surfaced with asphalt concrete or portland cement concrete. The paved area shall extend a minimum of 25 feet back from the edge of the existing roadway pavement. The driveway shall intersect the County road at a 90° angle. The driveway shall not exceed 2% in the first 25 feet.

Site visibility must be maintained at the driveway entrances in conformance with County Code.

Applicant shall be responsible to correct any involved drainage problems to the satisfaction of the Department of Public Works.

2. The applicant shall adhere to all building recommendations set forth in the R-2 Preliminary Geologic Report and/or Soils Engineering Report prepared by White Engineering (October 16, 2009).
3. The applicant shall:
 - a) use dust control techniques when excavating to minimize dust problems on adjacent parcels,
 - b) reseed disturbed areas prior to winter rain, and
 - c) take all precautions necessary to avoid the encroachment of dirt or debris on adjacent properties.

In addition, Best Management Practices for erosion and sediment control are to be utilized to minimize construction related impacts. These measures shall include:

- Restricting ground disturbance to the dry season,
- Installation of a silt fence on the downslope perimeter of the construction site,
- Limiting the concentration of runoff and armoring any high velocity discharge areas,
- Prohibiting downslope sidecasting of disturbed soils, and
- Staging of equipment be conducted on paved areas above the project site

The Plot Plan submitted for the Building Permit shall indicate that all ground bared during construction shall be landscaped and/or seeded and mulched prior to October 1st or as determined by the terms of the Building Permit.

4. The applicant shall complete the riparian buffer planting plan prepared by Points West Surveying prior to occupancy of building or "final" issued for building permits. If the work will not be completed prior to occupancy, a bond (or other adequate surety) in the amount required to perform the restoration work shall be submitted to the County to assure the restoration work is completed.
5. The applicant shall submit an annual Biological Monitoring Report for the riparian planting plan to the Planning Director for three (3) years following the completion of the work. The report shall be prepared by a qualified biologist and shall document the success of the restoration measures and identify follow-on measures, if necessary, to achieve the identified level of revegetation. A bond or other financial assurances satisfactory to the Planning Director to cover the monitoring activity and report preparation shall be provided based on an executed contract with a qualified biologist. The

amount of the performance security may be reduced per the approved budget by the Planning Director at the request of the applicant following the submittal of each annual report.

6. A split rail fence or other symbolic fencing approved by the Director shall be installed along the defined riparian buffer. This fencing shall be maintained for the life of the project.
7. **Within five (5) working days of the effective date of this permit approval**, the applicant shall submit a check to the Planning Division payable to the Humboldt County Recorder in the amount of \$2,060.25. Pursuant to Section 711.4 of the Fish and Game Code, the amount includes the Department of Fish and Game (DFG) fee plus a \$50 document handling fee. This fee is effective through December 31, 2010 at such time the fee will be adjusted pursuant to Section 713 of the Fish and Game Code. Alternatively, the applicant may contact DFG by phone at (916) 651-0603 or through the DFG website at www.dfg.ca.gov for a determination stating the project will have *no effect* on fish and wildlife. If DFG concurs, a form will be provided exempting the project from the \$2,010.25 fee payment requirement. In this instance, only a copy of the DFG form and the \$50.00 handling fee is required.

Note: If a required filing fee is not paid for the project, the project will not be operative, vested or final and any local permits issued for the project will be invalid (Section 711.4(c)(3) of the State Fish and Game Code).
8. The applicant shall provide a manufacturer's warranty for the painted metal roofing and siding showing that the finishing will have a 15 year minimum life.

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

1. All new and existing outdoor lighting shall be compatible with the existing setting and directed within the property boundaries.
2. Where feasible, new utilities shall be underground or sited unobtrusively if above ground.

Informational Notes:

1. If buried archaeological or historical resources are encountered during construction activities, the contractor on-site shall call all work in the immediate area to halt temporarily, and a qualified archaeologist is to be contacted to evaluate the materials. Prehistoric materials may include obsidian or chert flakes, tools, locally darkened midden soils, groundstone artifacts, dietary bone, and human burials. If human burial is found during construction, state law requires that the County Coroner be contacted immediately. If the remains are found to be those of a Native American, the California Native American Heritage Commission will then be contacted by the Coroner to determine appropriate treatment of the remains.
The applicant is ultimately responsible for ensuring compliance with this condition.
2. The applicant is responsible for receiving all necessary permits and/or approvals from other state and local agencies.
3. This permit approval shall expire and become null and void at the expiration of one (1) year after all appeal periods have lapsed (see "Effective Date"); except where construction under a valid building permit or use in reliance on the permit has commenced prior to such anniversary date. The period within which construction or use must be commenced may be extended as provided by Section 312-11.3 of the Humboldt County Code.
4. The October 15, 2008 document, "Project Review Input Basic to All Development Projects" is considered part of any input from the California Department of Forestry and Fire Protection (CDF) regarding this project. CDF suggests that the applicant have access to that document's input at the earliest contact possible. Handouts which describe that document are available from the Planning Division.

5. NEW DEVELOPMENT TO REQUIRE PERMIT. Any new development as defined by Section 313-139 of the Humboldt County Code (H.C.C.), shall require a coastal development permit or permit modification, except for Minor Deviations from the Plot Plan as provided under Section 312-11.1 of the Coastal Zoning Regulations.

ATTACHMENT 2
Staff Analysis of the Evidence Supporting the Required Findings

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

The Zoning Ordinance, Section 312-17.1 of the Humboldt County Code (Required Findings for All Discretionary Permits) specifies the findings that are required to grant a Coastal Development Permit and Special Permit:

1. The proposed development is in conformance with the County General Plan;
2. The proposed development is consistent with the purposes of the existing zone in which the site is located;
3. The proposed development conforms with all applicable standards and requirements of these regulations; and
4. The proposed development and conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.
5. The proposed development does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law (the mid point of the density range specified in the plan designation)
6. In addition, the California Environmental Quality Act (CEQA) states that one of the following findings must be made prior to approval of any development which is subject to the regulations of CEQA. The project either:
 - a) is categorically or statutorily exempt; or
 - b) has no substantial evidence that the project will have a significant effect on the environment and a negative declaration has been prepared; or
 - c) has had an environmental impact report (EIR) prepared and all significant environmental effects have been eliminated or substantially lessened, or the required findings in Section 15091 of the CEQA Guidelines have been made.

Staff Analysis of the Evidence Supporting the Required Findings

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

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

Plan Section(s)	Summary of Applicable Goal, Policy or Standard	Evidence Which Supports Making the General Plan Conformance Finding
Land Use: §5.20 (SCAP)	Proposed: Public Facility: The purpose of the PF designation is to protect sites appropriate for the development of public or private sector service facilities. Principal uses include police and fire stations, hospitals and schools, public and private facilities including offices, libraries, cemeteries and clinics. (The parcel is split-zoned PF and Natural Resources (NR); the proposed development will occur on the proposed PF zone (see Executive Summary).	The proposed project is for the construction of a 2,400 square foot metal storage building to house maintenance equipment used on the golf course and other RID owned areas. The proposal also includes a riparian planting plan to enhance the riparian buffer along an unnamed stream.
Housing: §3.26 (SCAP)	Housing shall be developed in conformity with the goals, policies and standards of the Humboldt County Housing Element.	The project is not for residential use and is, therefore not subject to the goals and policies of the Housing Element.
Hazards: §3.28 (SCAP)	New development shall minimize risk to life and property in areas of hazards.	<p>The parcel is in an area of unknown flood hazard per FIRM map 060060 1800B. BID did not identify any issues with regard to flood hazards.</p> <p>The parcel is also within a high wildland fire area, within the State Responsibility Area. Being over 1-acre in size, the parcel requires 30 foot setbacks from all property lines except for accessory structures constructed of non-combustible materials (see following section 3, setbacks). In addition, the metal building will provide adequate fire protection consistent with the SRA Standards.</p> <p>The parcel is within an area of high slope instability. As required, the applicant has submitted an R-2 geologic report, dated October 16, 2009, prepared by White Engineering. The Building Inspection Division approved the report and indicated that all recommendations in said report should be followed.</p>

<p>Biological Resource §3.41 (SCAP)</p>	<p>Protect designated sensitive and critical resource habitats.</p>	<p>An unnamed stream flows through the parcel to the north of the proposed development. Given that the South Coast Area Plan (SCAP) does not have a formally defined wetland or riparian buffer, each project is reviewed on a case by case basis. A site visit by Planning Staff and a representative from DFG visited the site and pursuant to recommendations by DFG, a riparian planting plan is included as part of this project. In addition, a split rail fence will be constructed along the edge of the planting area to assure vehicles remain outside of the planting area. (see further discussion in executive summary and below) The proposed storage building will be constructed approximately 86 feet from the centerline of the stream, providing a greater buffer than other development in the area.</p>
<p>Riparian Buffer <i>Statewide Interpretive Guidelines</i> A buffer area should be established for each development adjacent to environmentally sensitive habitat areas based on these standards. The width of a buffer area will vary depending upon the analysis.</p>	<p><u>Biological significance of adjacent lands</u></p>	<p>The Planting Plan prepared by Points West Surveying, describes the development area as "flatter upland covered with grasses and sparse tree cover." Adjacent lands are dominated by coastal prairie and native perennial grasslands with riparian scrub vegetation and patches of North Coast coniferous forest. The development area is surrounded by residences to the immediate south, the golf course and airport to the west, the wastewater treatment plant to the northwest and commercial development and green belt to the north and northeast. The proposed 86 foot setback is consistent with other development in the area: a commercial cabinet shop on APN 111-271-02 is located 41 feet from the thread of the watercourse; the RID wastewater treatment plant is also located 41 feet from the creek at it closest point; and the multi-story commercial building on APN 111-071-14 is located 50 feet from the watercourse, with "hardscape" parking being as close as 25 feet from the channel. Indirect impacts to the riparian area associated with building site disturbance will be isolated through use of best management practices to minimize and control erosion and replanting to enhance the buffer and promote greater canopy closure to provide cover and reduce water temperature for the intermittent watercourse.</p>

	<u>Sensitivity of species to disturbance.</u>	No riparian vegetation will be removed by the development of the storage building. With observance of the recommended mitigation and monitoring measures, indirect impacts to the intermittent drainage course should be avoided.
	<u>Susceptibility of parcel to erosion.</u>	<p>The parcel is vegetated with well established grasses. The location of the proposed building is protected from erosion into the creek by topography, a gentle bank which directs water westerly from the proposed building site until it can sheet flow into the drainage course. Best management practices for erosion and sediment control are to be utilized to minimize construction related impacts. These measures include:</p> <p><i>Restricting ground disturbance to the dry season</i></p> <p><i>Installation of a silt fence on the downslope perimeter of the construction site</i></p> <p><i>Limiting the concentration of runoff and armoring any high velocity discharge areas</i></p> <p><i>Prohibiting downslope sidestepping of disturbed soils</i></p> <p><i>Staging of equipment be conducted on paved areas above the project site</i></p> <p>Therefore, the project is not expected to increase the susceptibility of the parcel to erosion.</p>
	<u>Use of natural topographic features to locate development.</u>	The proposed storage building is situated on a bench located to the south of the drainage course. No riparian vegetation will need to be removed to accommodate the proposed building site. Minimal grading is required as an existing driveway currently serves this site.
	<u>Use of existing cultural features to locate buffer zones.</u>	No cultural features are available to use in the location of the buffer zone. However, the building will be clustered with an existing RID storage building and was sited to use the existing driveway access at the point most distant from the watercourse.
	<u>Lot configuration and location of existing development.</u>	Existing development in this area is generally 50 feet or less from the flow line of the creek. The current project is proposed to be 86 feet from the creek flow line and will incorporate a planting plan to enhance the quality of the buffer area.

	<u>Type and scale of development proposed.</u>	The proposed storage building is a low impact use. It will be a storage facility utilized only by authorized RID personnel. No continuous human residential use will result; no domestic pet or other hazardous introductions will be created as part of the project. The facility will be used during daylight hours and not on a daily basis
Cultural Resource §3.29 (SCAP)	Protect cultural, archeological and paleontological resources.	The North Coast Information Center did not indicate any concerns regarding the project. As a standard inclusion of all staff reports, an informational note has been included with the Conditions of Approval indicating the steps to be taken should cultural resources and/or human remains be discovered during ground disturbing activities.
Visual Resource §3.42 (SCAP)	Protect and conserve scenic and visual qualities of coastal areas.	The proposed structure will be approximately 16 feet in height and sheltered from public views by vegetation on three sides. While not located within a Coastal View area, the structure may be partially visible from the coast. However, due to the extreme topographic changes within this portion of the coastline, view of the property from the shoreline and beach areas is not a concern. With the height of the structure at 16 feet and the backdrop of large trees, the structure will blend in somewhat with the surrounding vegetation.

2. The proposed development is consistent with the purposes of the existing zone in which the site is located;

ZONE	Purpose	Finding in Support of
Proposed: 313-18 PF Public Facility	Public Recreation and open space uses (golf courses) are principally permitted under the Civic Use type.	The parcel is developed with a portion of the 9-hole public golf course. The golf course circles the airport and provides an open space buffer consistent with the adopted Airport Land Use Plan (ALUP). The airport and golf course are on lands owned by the Resort Improvement District, a public agency. As such, the golf course comprises a low-intensity public recreation and open space use consistent with the Plan and Zoning. The project proposes an additional storage building to house maintenance equipment associated with the golf course. Note: The applicant requests that the boundary between the NR and PF1 zones be determined by the Planning Commission in accordance with Section 311-8.2, Unclear Boundaries (see below).
313-16.3 AP: Airport Safety Review	The purpose of these provisions is to establish regulations to maintain compatibility between proposed land uses and development and Humboldt County airports.	The proposed storage building is located directly north of an existing storage building away from the airport and outside the area designated Zone "A" (Runway Protection Zone). The building is situated such that it is not encumbered by the airspace constraints, specifically the 7:1 transitional surface.
313-19.1 D: Design Review	The purpose of these regulations is to provide design review for conformance of new development with the policies and standards of the General Plan, and to provide for a design review process where neighborhoods within the same zone district desire to preserve or enhance the area's historical, cultural or scenic values.	The proposed construction is consistent and compatible with the General Plan. Evidence of adherence to the Design Review findings is discussed in Section 3 (below).

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

Zoning Section	Summary of Applicable Requirement	Evidence That Supports the Zoning Finding
Proposed: 313-4.1 PF1 Public Facility – Urban	The PF1 Zone is intended to protect sites in urban areas which are appropriate for the development of public and private sector civil service facilities.	The proposed project is for the development of a metal storage building to house equipment associated with the maintenance of the golf course and surrounding areas owned by the Resort Improvement District. The structure will be located adjacent to an existing storage building. Note: The applicant requests that the boundary between the NR and PF1 zones be determined by the Planning Commission in accordance with Section 311-8.2, Unclear Boundaries (see below).
Minimum Lot Size	5,000 square feet	Approximately 12.6 acres
Minimum Lot Width	50 feet	Average ± 100 feet
Maximum Density	None specified	No dwelling units are proposed
Maximum Lot Depth	3 x 100 (lot width) = 300 feet	Approximately 2,700 feet
Min. Setbacks per Zoning	Front: 20 feet Rear: 15 feet Sides: 20 feet	The nearest property line is the boundary between the PF zone and a Residential Single Family zone. The required side yard setback is 20' due to the location partially in an RS zone. The project is exempt from the SRA 30 foot building setback to property lines per Section 3115-2(a)(2) which exempts detached accessory buildings constructed on non-combustible or fire-resistant materials located no closer than 20 feet from any other building. Accordingly, the 20 foot setback may be used without the necessity of securing an exemption from the fire safe regulations. This setback shall be shown on the building permit plot plan.
Max. Lot Coverage	None specified	Approximately 1%

Off-street Parking §313-109.1	One additional parking space is required for the 2,400 square foot storage building.	Four parking spaces will be available within the building and additional parking is available in the paved area directly in front of the building.
Maximum Structure Height	Thirty-five feet (45')	Max height – 16'
§313-19.1 Design Review Combining Zone		
5.1 Design Review Committee Findings	The Design Review Committee must determine that the project is consistent and compatible with the applicable elements of the General Plan.	The subject parcel is not within a designated Coastal Scenic or Coastal View area. The structure will be constructed of similar material (painted metal) to the existing storage building on site.
5.2 Protection of Natural Landforms	To minimize alterations due to cutting, grading filling and clearing, except to comply with fire hazard regulations.	The building site was chosen to minimize the amount of cut and fill required. The site is relatively flat and will require minimal grading.
5.3 Exterior Lighting	All new outdoor lighting shall be compatible with the existing setting and directed within the property boundaries.	This has been included in the Conditions of Approval as an on-going development restriction.
5.4 Landscaping	Screening or softening the visual impact of new structures through landscaping; preferably with native vegetation.	Staff has determined that the visual impact of the proposed project on neighboring parcels should be insignificant. Additional plantings of native vegetation will further reduce the visual impacts of the building.
5.5 Underground Utilities	Where feasible, new utilities shall be underground or sited unobtrusively if aboveground.	New utilities shall be placed underground, when feasible. This has been included in the Conditions of Approval.
5.6 Setbacks	Setbacks from roads and property lines are appropriate to protect the scenic and visual qualities of the site and area.	The proposed project meets or exceeds all setback requirements. There is not likely to be impacts to scenic or visual qualities of the area.
5.7 Off-Premise Signs	Off-premise signs shall be designed attractively and in a style compatible with the neighborhood setting.	No off-premises sign are proposed.
§313-19.18 Additional Standards Applicable to Shelter Cove		
1. Residences must be constructed to a minimum width of 20'.		The project does not include a residence, therefore this requirement does not apply.
2. Foundations must meet UBC requirements for seismic zone IV.		This is a requirement of the Building Permit.
3. A minimum roof overhang of 12" must be provided on all residences.		The project does not include a residence, therefore this requirement does not apply.
4. Exterior walls and roofing materials shall not be constructed of reflective, unfinished metal or galvanized metal.		The sides and roof will be a finished, non-reflective painted metal material.

Determining Boundary between NR and PF1 Zones

Staff believes that the zone boundary determination can be made per H.C.C. §311-8.2, which states

"where the property is indicated on a zoning map or maps as acreage and not subdivided into lots and blocks, or where the zone boundary lines are not approximately street, alley or lot lines, the zone boundary lines on said zoning map or maps shall be determined by scale contained on such map or maps, and where uncertainty exists, the zone boundary line shall be determined by the Planning Commission. In the event property shown as acreage on the zoning map or maps has been or is subsequently subdivided into lots or lot and block arrangement does not conform to that anticipated when the zone boundaries were established, the Planning Commission, after notice to the owners of the property affected thereby, may interpret the zone maps in such a way as to implement the intent and purpose of those regulations and conform to the street, block and lot layout on the ground. Such interpretation shall be by written decision, and thereafter the copies of the zoning maps shall be changed to conform thereto." (Emphasis added.)

The requested boundary interpretation will precisely describe the Natural Resources (NR) and the Public Facility, Urban (PF1) boundaries to coincide with the project plot plan. Section 311-8.2 of the Zoning Regulations permits the precise location of the boundary to be determined by the Planning Commission to better conform to lot dimensions where to do so will "implement the intent and purpose of the zone".

These lands of the RID were not subdivided into lots per se but were retained as large in holdings within the Shelter Cove Subdivision. The RID property in question has been the subject of a process seeking to correct a mapping error through a Local Coastal Plan (LCP) amendment. The Board approved the amendment on September 25, 2007, and forwarded the proposal to the California Coastal Commission on December 11, 2007. At this point, the LCP amendment is awaiting final approval and certification from the Coastal Commission and is grouped with a number of other map amendments, some of which have issues which have slowed the processing by the Coastal Commission and necessitate further consultation with the County. Moving the RID amendment forward in the near term is unlikely.

Section 311-8.2 allows the Planning Commission to determine the zone boundary when it is uncertain. The boundary per the submitted plot plan is proposed to lie just outside the "footprint" of the proposed structure within the PF1 zone with the remaining lands zoned NR. This is flat land located immediately adjacent to the existing RID storage building and fronted by the existing access driveway. By limiting the boundary determination in this way, any action by the Planning Commission will have a de minimis effect on the pending LCP amendment. Upon certification by the Coastal Commission, the zone will be more formally described.

4. Public Health, Safety and Welfare: The following table identifies the evidence which supports finding that the proposed development will not be detrimental to the public health, safety and welfare.

Code Section	Summary of Applicable Requirement	Evidence that Supports the Required Finding
§312-17.1.4	Proposed development will not be detrimental to the public health, safety and welfare or materially injurious to properties or improvements in the vicinity.	All reviewing referral agencies have approved the proposed development. The proposed project will be a single-family residence, which is a principally permitted use. The proposed development will be compatible with the predominant usage in the area, that of single family residential. No adverse impacts to properties in the vicinity are expected.

5. Impact on Residential Density Target: The following table identifies the evidence which supports finding that the proposed project will not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.

Code Section	Summary of Applicable Requirement	Evidence that Supports the Required Finding
312-17.1.5 Housing Element Densities	The proposed development shall not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law (the mid point of the density range specified in the plan designation), except where: 1) the reduction is consistent with the adopted general plan including the housing element; and 2) the remaining sites identified in the housing element are adequate to accommodate the County share of the regional housing need; and 3) the property contains insurmountable physical or environmental limitations and clustering of residential units on the developable portions of the site has been maximized.	The project involves the construction of a storage building accessory to the golf course. No residential development is proposed, nor is it allowed in the PF zone. Therefore, no residential units were anticipated on this parcel as part of the Housing Element.

6. Environmental Impact:

Please see the attached draft Negative Declaration.

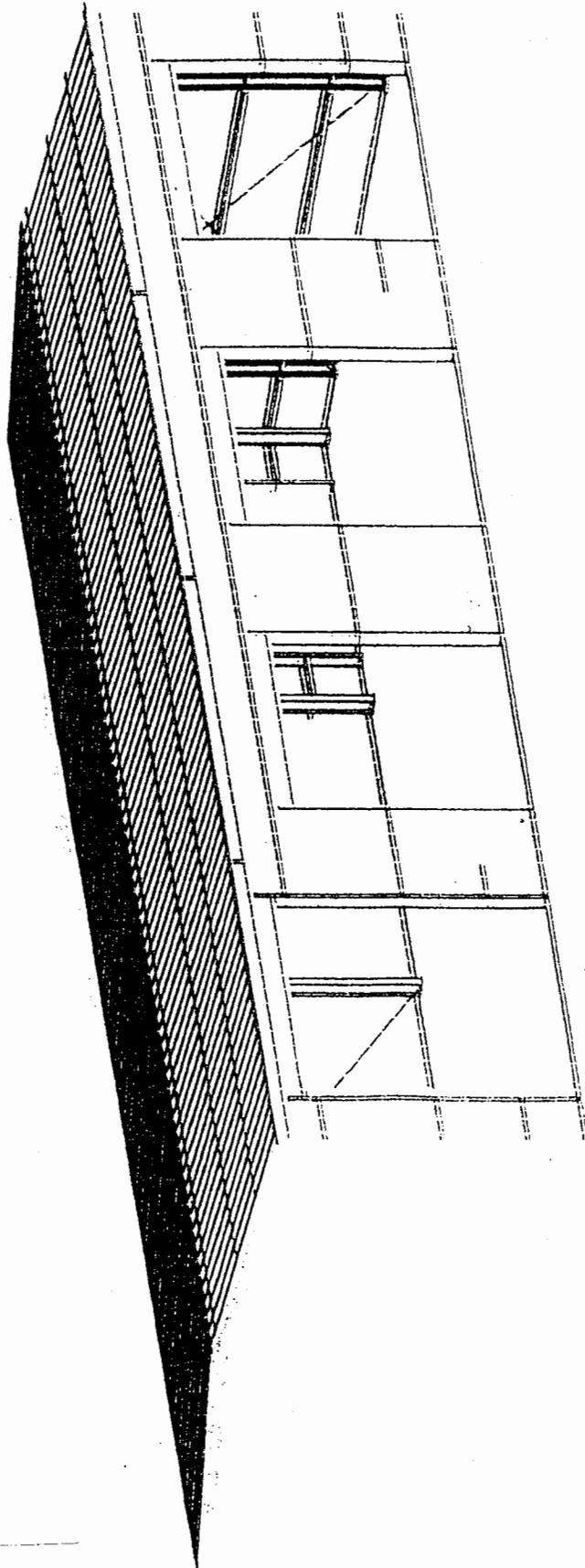
As required by the California Environmental Quality Act, the initial study conducted by the Community Development Services, Planning Division (Attachment 5) evaluated the project for any adverse effects on the environment. Based on a site inspection, information in the application, and a review of relevant references in the Department, staff has determined that there is no evidence before the Department that the project will have any potential adverse effect, either individually or cumulatively, on the environment. The environmental document on file in the Department includes a detailed discussion of all relevant environmental issues.

Because the project was found subject to CEQA and a Mitigated Negative Declaration was prepared, the provisions of Section 711.4 of the California Fish and Game Code apply to this project. Within five (5) days of the approval date of this tentative map and special permit, the applicant shall submit a check to the Planning Division payable to the Humboldt County Recorder in the amount of \$2,060.25. Pursuant to Section 711.4 of the Fish and Game Code, the amount includes the Department of Fish and Game (DFG) fee plus the \$50 document handling fee. This fee is effective through December 31, 2010 at such time the fee will be adjusted pursuant to Section 713 of the Fish and Game Code. Alternatively, the applicant may contact DFG by phone at (916) 651-0603 or through the DFG website at www.dfg.ca.gov for a determination stating the project will have *no effect* on fish and wildlife. If DFG concurs, a form will be provided exempting the project from the \$2,010.25 fee payment requirement. In this instance, only a copy of the DFG form and the \$50.00 handling fee is required. This requirement appears as Condition #7 of Attachment 1.

ATTACHMENT 3
Applicant's Evidence In Support of the Required Findings

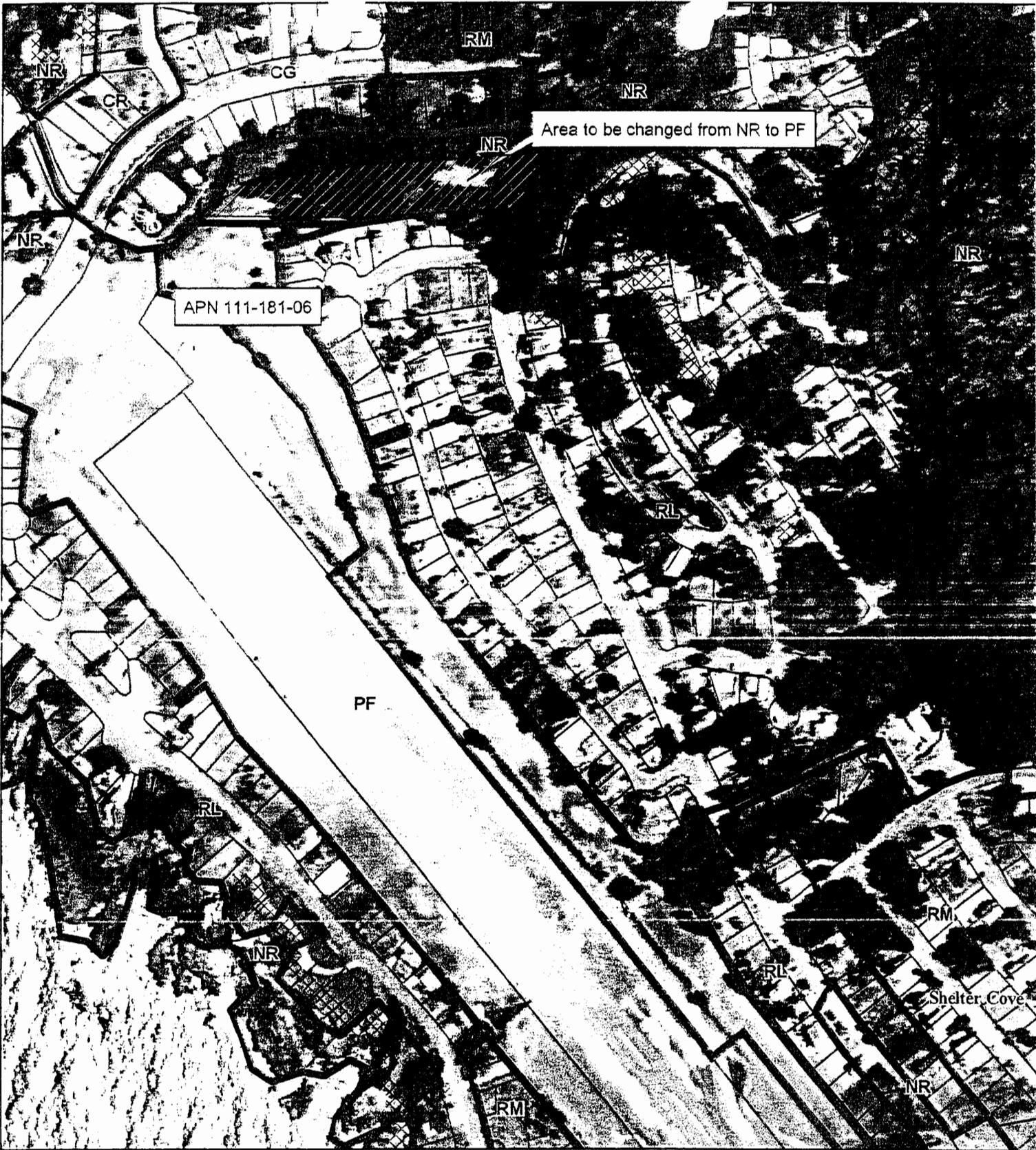
Attachment 2 includes a listing of all written evidence which has been submitted by the applicant in support of making the required findings. The following materials are on file with the Planning Division:

- Application Form [in file]
- Plot Plan/Tentative Map Checklist [in file]
- Plot Plan [attached]
- Elevations [attached]
- R-2 Soils Report [in file]
- Current Deed [in file]
- Map of area to be planned and zoned PF [attached]
- Setback analysis [attached]
- Site Photographs [attached]



3D FRONT LEFT - (A) main

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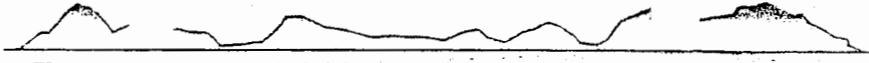
Humboldt County Coastal Plan Update
 South Coast Area Plan Amendment

General Plan Map 1 inch equals 303 feet
 Mapped Physical Constraints



Applicant: Resort Improvement District #1
 Site Address: Sea View Drive, Shelter Cove
 Assessor's Parcel Number (APN) 111-181-06

Description: on +/- 1.2 acres of the 12.6 acre lot,
 change the Plan Designation from NR to PF
 and change the zoning from NR to PF(1)/AP,D.



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Steve Werner
Supervising Planner
Humboldt County
Community Development Services

September 28, 2009

Steve:

The purpose of this letter is to address the issues that have been raised regarding the proposed construction of the Golf Course Maintenance Equipment Storage Building on a portion of Lot LK within the Shelter Cove Subdivision by Resort Improvement District No. 1.

The proposed project is the construction of an 80 foot long, 30 foot wide metal building on a concrete slab foundation. The project would be constructed on a portion of Lot LK adjacent to an existing metal building which houses one piece of equipment. Mowing equipment for the golf course is currently parked in this area when not in use but has no cover from the elements. The proposed building would house a tractor and chip truck currently used for maintenance of the golf course as well as the mowing equipment. See attached **Figure 1** to see the project configuration as proposed.

The project was proposed at this location for a number of reasons. The District currently houses equipment in this location. The location has developed access which also serves the taxiway at the north end of the runway and is served by existing utilities. The location is sheltered from public view by vegetation on three sides. This is positive both for the effect on the security of these facilities and the impact on neighboring viewsheds, a large concern for RID#1 because of its coastal location. Because of its topography this location is unencumbered by the Airspace Constraints, specifically the 7:1 Transitional Surface. See **Figure 2** for the Airspace Plan.

Lot LK is an approximately 12 acre lot which fronts on a portion of Upper Pacific Drive, has several access points along Sea View Drive, and fronts along the airstrip parcel (Lot A). See **Figure 3** for overall parcel configuration. The majority of Lot LK is constrained by the Airport Safety Zones noted above and 3 drainage courses, one near the intersection of Shelter Cove Road and Upper Pacific Drive, one at the southerly end of Lot LK along the common boundary with Lot MMM, and the other adjacent to the proposed project along the southerly side of the wastewater treatment plant site and falling within the lots of Block 120 of the Shelter Cove subdivision. The latter unnamed creek does not appear on the USGS quadrangle maps and is not identified in the Humboldt County GIS as a Streamside Management Area (SMA) or an Environmentally Sensitive Habitat Area (ESHA).

The proposed project falls on a portion of Lot LK that was formerly zoned NR (Natural Resources) by an arbitrary line that bisected the parcel from the back of the lots in

Block 120 that front along Lower Pacific Drive to the back of the lots in Block 121 that front along Sea View Drive. See **Figure 3** for the former location of this line. A topographic survey of the parcel was performed in 2006 and identified a portion of the parcel with topography that could support recreational and public facility uses. The survey also revealed that the majority of the creek falls within the lots of Block 120 and not on Lot LK. This survey was used as the basis of a rezoning application, approved by the Board of Supervisors on October 9, 2007, which relocated the NR/PF (Public Facilities) zoning boundary along the southerly edge of a 50 foot wide corridor which "encompasses the southern slope of the entire drainage 15' back from the top of slope" along the unnamed creek.

The 50 foot setback along the unnamed creek corridor is consistent with other development in the area. Refer to the attached **Figure 1** for setbacks of existing structures. A commercial cabinet shop permitted in 2007 and currently under construction on APN 111-071-02 is located 41 feet from the thread of the unnamed creek at its closest point and 49 feet perpendicular to the thread of the stream along its southerly boundary line. The existing wastewater treatment plant control building, formerly the golf course clubhouse, is located 41 feet from the thread of the unnamed creek at its closest point. The multi-story commercial building located on APN 111-071-14 is located 50 feet from the channel of the creek; the hardscape (concrete parking lot improvements) are located 25 feet from the channel of the creek. Use of a 100 foot buffer zone along this unnamed creek would render all of the lots in Block 120 as non-buildable. **A 50 foot setback along this creek is consistent with existing development.**

As part of the necessary findings for this zone reclassification, the Planning Commission and the Board of Supervisors are required to provide evidence supporting Finding No. 1, that "base information has changed, community values changed, or there is an error in the plan, or to maintain existing uses otherwise consistent with a comprehensive view of the plan." As evidence for this finding, the staff report states, in part: "This amendment will continue to protect the existing drainage basin by retaining the NR designation along a 50 foot wide corridor that encompasses the southern slope of the entire drainage 15' back from the top of slope."

As noted in the evidence for Finding No. 1, the portion of Lot LK that was changed by the above noted request "is the largest and flattest piece of greenbelt property the District owns that is not encumbered in some way by proximity to the airport." The 9 holes of the golf course that were constructed surround the airport runway and taxiway. The portion of Lot LK that would house the proposed project is adjacent to the golf course. This is the only location along the golf course that can house a building of this size and construction.

The greenbelt lots that were dedicated to the Shelter Cove Resort Improvement District upon the recordation of the subdivision were intended for those uses spelled out in Section 13070 of the Public Resources Code, which include provision of water, recreation and public facilities. The majority of the greenbelt lots in the Shelter Cove subdivision that were dedicated to RID#1 are steep, vegetated areas set aside to

contain drainage courses and undevelopable areas lying within the boundaries of the subdivision. Those greenbelt lots that are exceptions to this condition are lots that contain airport facilities or front upon the airport facilities. This makes the lots difficult to develop because of the Airspace Plan constraints and impacts upon coastal viewsheds.

The project as proposed would site the proposed 80 foot long metal building adjacent to an existing building as noted above. The parallel configuration shown on Figure 1 was chosen because of its lower construction cost and its harmony with the existing access road and existing structures. Alternative configurations and locations for the building were evaluated, including an alternative wherein the building would be rotated 90 degrees counterclockwise. This alternative was ruled out because the 6 foot change in elevation along the length of the building would result in large amounts of additional grading, fill, and possibly the need for costly design elements such as stepped foundations. As with all public entities in this time, RID#1 has limited resources and must choose cost-effective projects within those resources.

During the review by HCCDD and referral agencies, reference has been made to "SCAP Wetland/Riparian Buffer Meeting Notes" dated Monday, January 26, 2009. Part of the purpose of the meeting documented therein was to address Riparian and Wetland Buffers within the Shelter Cove Subdivision. Initially, it must be pointed out that these meeting notes contain an error regarding the Shelter Cove Area Plan (SCAP). Reference is made to Section 3.41E (4)(d), quoted as "In Shelter Cove Sea Park the riparian corridors shall be the same as the 'green belt' areas." In fact, this section does not appear in the adopted SCAP certified 12/19/1985. This is likely because this statement is not true, and riparian corridors exist in Shelter Cove apart from the greenbelt lots, including along the unnamed creek abutting the proposed project as discussed previously herein.

These meeting notes state agreement between the agencies present, HCCDD and the California Coastal Commission, that the Shelter Cove portion of the SCAP does not have "a formally defined wetland or riparian buffer". Bob Merrill of the California Coastal Commission suggested direction from the 1981 Statewide Interpretive Guidelines, which establish 7 criteria for determining the appropriate width of the buffer area. These criteria are as follows:

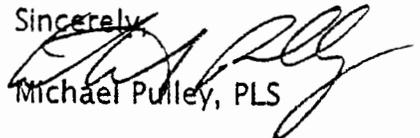
1. *Biological significance of adjacent lands;*
2. *Sensitivity of species to disturbance;*
3. *Susceptibility of parcel to erosion;*
4. *Use of natural topographic features to locate development;*
5. *Use of existing cultural features to locate buffer zones;*
6. *Lot configuration and location of existing development; and*
7. *Type and scale of development proposed.*

These criteria can be addressed in regards to the current project to support the reduction of the riparian buffer to the 80 feet buffer proposed for the current project.

- 1) As noted in the previous zone application, the portion of the property where

- the development is proposed is composed of flatter upland covered with grasses and sparse tree cover. The footprint of the proposed building has no evidence of riparian vegetation and no evidence of usage by inhabitant of the adjacent riparian corridor such as scat, dens, or nests.
- 2) The lack of evidence of usage of the building location by riparian dependent species indicates that no species subject to disturbance would be affected by the proposed development. It must be noted the unnamed creek is separated from the ocean by a rocky outfall which prevents migration by anadromous species. The unnamed creek is intermittent in character.
 - 3) The parcel is vegetated with well established grasses and is not susceptible to erosion. The location of the proposed building is protected from erosion into the unnamed creek by topography, a gentle bank which directs water westerly from the proposed building site until it can sheet flow into the drainage course. The cabinet shop under construction on APN 111-171-02 is located upon a higher elevation, with improvements nearly to the top of bank, and represents a more serious threat for erosion into the creek than the proposed project.
 - 4) The existing ground topography has been taken into account for the location of the proposed building. The topography prevents impacts to the creek corridor, allows for a building site with low visual impact, and allows for use of existing access and utilities with minimal grading activities.
 - 5) The location of existing cultural features has been considered to locate buffer zones. In this case the building was sited to use the existing access road at the point where it is furthest from the unnamed creek.
 - 6) As shown on **Figure 1**, existing development within this area of the creek is generally 50 feet or less from the flowline of the creek. The current project is proposed to be 80 feet from the flowline of the creek. Because the buffer falls under the suggested 100 foot width per the SCAP, mitigation measures such as the planting of riparian vegetation in an approximately 4400 square foot area, the installation of a vegetated swale to mitigate stormwater runoff, and the use of permeable material such as gravel for additional roadway areas are proposed. Part of this planting mitigation is proposed to replace trees removed by the RID#1 in 2006 which were considered a fire hazard for the existing storage building.
 - 7) The proposed development is for a storage facility which will only be utilized by certain RID personnel. This type of development is very low impact. No continuous human residential use will be accommodated; no domestic pets or other hazardous introductions will be created as part of the project. The facility will largely be used during daylight hours and will not likely be used on a daily basis. The storage building is one of the lightest possible uses of this parcel in terms of human impact.

After reviewing the above material, on behalf of RID#1, I ask that you make the necessary determination and findings to allow for an 80 foot riparian buffer to allow for the construction of the Golf Course Maintenance Equipment Storage Building as proposed.

Sincerely,

Michael Pulley, PLS

ATTACHMENT 4
Referral Agency Comments and Recommendation

The project was referred to the following referral agencies for review and comment. Those agencies that provided written comments are checked off.

Referral Agency	Response	Recommendation	Attached	On File
County Building Inspection Division	✓	Approval		✓
County Public Works, Land Use Division	✓	Conditional approval.	✓	
County Division of Environmental Health	✓	Approval		✓
CALFIRE	✓	Approval		✓
California Coastal Commission	✓	Comments	✓	
Shelter Cove Resort Improvement District		No Response		
Shelter Cove Volunteer Fire Department		No Response		
North Coastal Information Center	✓	Approval		✓
Regional Water Quality Control Board				
Shelter Cove Property Owners Assoc.				
Department of Fish and Game	✓	Approval	✓	

CALIFORNIA COASTAL COMMISSION

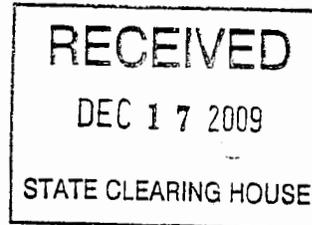
NORTH COAST DISTRICT OFFICE
 710 E STREET • SUITE 200
 EUREKA, CA 95501-1865
 VOICE (707) 445-7833
 FACSIMILE (707) 445-7877



December 15, 2009

Trevor Estlow
 County of Humboldt, Planning Division
 3015 H Street
 Eureka, CA 95501

Clear
1.5.10
e



SUBJECT: Resort Improvement District CDP Application No. 09-02
 Initial Study and Draft Mitigated Negative Declaration
 (SCH No. 2009122015)
 APN 111-181-06, Shelter Cove area

Dear Mr. Estlow:

Thank you for the opportunity to comment on the above-referenced project. We received the Initial Study and Draft Mitigated Negative Declaration (MND) in our Eureka office on December 10, 2007. Additionally, we received a public hearing notice on December 7, 2009 stating that the Humboldt County Planning Commission will consider adopting the MND and approving the necessary coastal development permit and special permit for the project at the January 7, 2010 planning commission hearing.

The following are comments of the Coastal Commission staff. The Commission itself has not reviewed the documents.

The applicant proposes to construct an approximately 2,400-square-foot building to be used for the storage of maintenance equipment associated with the golf course along with a new driveway to access the new storage building. As noted in the referenced documents, the proposed project site is located within the coastal zone, within the jurisdiction of the County's certified Local Coastal Program (the certified South Coast Area Plan and the certified Coastal Zoning Regulations). Any decision rendered by the County on the project would be appealable to the Coastal Commission pursuant to Public Resources Code Section 30603(a)(2), since the project site is within 100 feet of a wetland and/or stream.

Our comments on the proposed project relate to two main issues (1) the project's consistency with the certified land use and zoning designations of the site, and (2) the project's consistency with the riparian corridor protection policies of the certified Local Coastal Program (LCP).

Inconsistency with the Certified Land Use Plan Designation and Zoning District

As noted in the referenced documents, the proposed project site is located on land that is planned and zoned for Natural Resources (NR) uses under the County's certified LCP. Section 5.20 of the certified Land Use Plan (known as the South Coast Area Plan or SCAP), which was certified as legally adequate by the Coastal Commission in December of 1985, lists the following as principal uses that are allowed within the NR land use designation: *management for fish and wildlife habitat*. Additionally, the same section of the certified SCAP lists the following uses as conditionally allowed on lands designated NR: *wetland restoration, development of hunting blinds and similar minor facilities, improvement of boating facilities in estuaries consistent with applicable policies of the plan, and removal of trees for disease control and public safety purposes*. Similarly, the Coastal Zoning Regulations (CZR), also certified in 1985 by the Commission, list "Fish and Wildlife Habitat Management" (defined as "...the manipulation or maintenance of vegetation or streams, or construction of minor structures to yield desired results in terms of habitat suitable for designated wildlife or fishery species or groups of species" in CZR Section 313-176.2) as the principally permitted use type within the NR zoning district. Additionally, the following uses (all of which are defined in Section 313-171 through 313-177 of the CZR) are conditionally permitted within the NR zoning district: *caretaker's residence, minor utilities, oil and gas pipelines, minor generation and distribution facilities, aquaculture, surface mining, watershed management, wetland management, boating facilities improvements, resource-related recreation, and coastal access facilities* (CZR Section 313-5.4).

The development of the proposed storage building and access driveway is neither a principally permitted nor conditionally permitted use allowed within the NR land use designation or zoning district under the certified LCP. The referenced documents note that the proposed project utilizes Section 1444 of the Humboldt County General Plan, which allows a permit application to proceed in advance of a General Plan Amendment to correct an identified error in the Plan. However, referenced Section 1444 of the County general plan is not included within the certified LCP. We note that the County submitted an application for a major LCP amendment to this office in December of 2007, which included, among many other proposed changes, a proposed change to the land use and zoning designations of the subject property from NR to Public Facilities (PF). However, to date this LCP amendment application remains incomplete and has not yet been certified by the Commission. Therefore, the project, as currently proposed on lands designated and zoned NR under the existing LCP, is inconsistent with the sections of the certified LCP cited above.

Inconsistency with the Riparian Corridor Protection Policies of the Certified LCP

The proposed project would be located approximately 86 feet from the centerline of an unnamed stream within lands designated and zoned NR as discussed above. Section 3.41-E-4 of the SCAP states that "*Riparian corridors on all perennial and intermittent streams shall be, at a minimum, the larger of the following: ... (d) In Shelter Cove Sea Park the riparian corridors shall be the same as the 'green belt' areas*" (emphasis

added). These "green belt" areas are interpreted to mean the lands designated and zoned NR that are held by the Resort Improvement District (the applicant). Thus, the proposed project site is within a "riparian corridor" as defined by Section 3.41-E-4 of the SCAP. Section 3.41-E-5 of the SCAP states the following:

New development within riparian corridors shall be permitted when there is no less environmentally damaging feasible alternative, where the best mitigation measures feasible have been provided to minimize adverse environmental effects, and shall be limited to the following uses:

- a. *Timber management activities...*
- b. *Timber harvests...*
- c. *Maintenance of flood control and drainage channels.*
- d. *Wells...*
- e. *Road and bridge replacement or construction...*
- f. *Removal of trees for disease control or public safety purposes.*
- g. *Removal of firewood...*
- h. *Mitigation measures for development within riparian corridors shall, at a minimum, include replanting disturbed areas with riparian vegetation, retaining snags..., and retaining live trees with visible evidence of current use as nesting sites by hawks, owls, eagles, osprey, herons, or egrets.*
- i. *The County shall request the Department of Fish and Game to review plans for development within riparian corridors, the Department may recommend measures to mitigate disruptions to habitats.*

Although the County consulted with the DFG on the proposed development plans, and a recommended mitigation measure of the proposed project is to plant regionally appropriate native riparian vegetation between the proposed structure and the unnamed stream, construction of a new building for the storage of golf course maintenance equipment is not one of the allowable uses within riparian corridors listed above. Additionally, it is unclear whether the proposed project represents the least environmentally damaging feasible alternative, as is required by Section 3.41-E-5 of the SCAP and Section 312-39.4 of the CZR.

Thank you again for the opportunity to comment on this proposed project. If you have any questions regarding these comments, please contact me at the North Coast District Office at 707/445-7833.

Sincerely,



Melissa B. Kraemer
Coastal Planner

Cc: State Clearinghouse, P.O.Box 3044, Sacramento, CA 95812-3044
CDFG, Attn: Michael van Hattem, 619 Second St., Eureka, CA 95501

Estlow, Trevor

From: Michael van Hattem [MVANHATTEM@dfg.ca.gov]
Sent: Thursday, October 08, 2009 12:29 PM
To: Estlow, Trevor
Subject: Re: R.I.D. project Shelter Cove

Hi Trevor,

Based on Point West Surveying's map they need to increase the planting plan to the edge of the new driveway and gravel turnaround. Species compositions should include red alder, willow, and cascara below the slope and associated with the riparian and coastal silk tassel and wax myrtle near the upper edge or uplands. The symbolic fence and monitoring seems appropriate. Thanks m

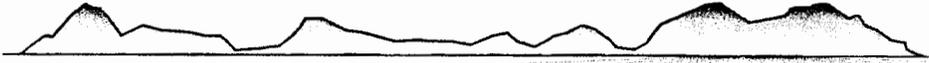
>>> "Estlow, Trevor" <TEstlow@co.humboldt.ca.us> 10/6/2009 12:51 PM >>>
Michael-

After reviewing the attached letter, Steve Werner and I met with Michael Pulley last week to go over the proposal for the storage building. After reviewing the information, Steve felt that we could support the reduction as proposed. This would include heavily planting the area with willow and wax myrtle and maybe a couple more larger trees further from the creek (suggestions?). We also proposed a symbolic split rail fence along the edge of the building between the building and the creek to prevent any encroachment into the SMA. This will require a bond to cover the cost of the planting (labor and materials) as well as 3 years of monitoring to assure success. I know it's not the 100 feet I thought we were heading but it's something. Let me know what you think.

Thanks.

Trevor Estlow, Senior Planner
County of Humboldt, Planning Division
3015 H Street
Eureka, CA 95501
Phone: (707) 268-3740
Fax: (707) 445-7446
Email: testlow@co.humboldt.ca.us

ATTACHMENT 5
Draft Initial Study and Mitigated Negative Declaration



POINTS WEST SURVEYING Co.

1385 Fischer Road McKinleyville, CA 95519

707.840.9510 Phone 707.840.9542 Fax

David A. Crivelli

crivelli@pointswestsurve

Michael D. Pulley

dpointswestsurveying.com

EXHIBIT NO. 12

APPEAL NO.

A-1-HUM-10-013

RESORT IMPROVEMENT
DISTRICT #1

APPLICANT'S
CORRESPONDENCE

April 20, 2010

RECEIVED

APR 21 2010

California Coastal Commission
North Coast District Office
710 E Street, Suite 200
Eureka CA 95501

Re: Commission Appeal No. A-1-HUM-10-013
Local Permit CDP-09-02 / SP-09-03

CALIFORNIA
COASTAL COMMISSION

The purpose of this letter is to address the issues raised in the appeal of the decision of the Humboldt County Planning Commission regarding application CDP-09-02 for the Resort Improvement District on Lot LK. The 3 major issues identified in the appeal will be addressed.

1) Inconsistency with the LCP policies and standards on riparian corridor protection

The appeal argument states that, per the LCP, the project is within a riparian corridor since it is within the 'green belt' areas identified on the Shelter Cove subdivision map. This argument is based on SCAP 3.41E(4)(a) & (d), which state as follows:

4. *Riparian corridors on all perennial and intermittent streams shall be, at minimum, the larger of the following:*

a) *100 feet, measured as the horizontal distance from the stream transition line on both sides*

d) *In Shelter Cove Sea Park the riparian corridors shall be the same as the 'green belt' areas.*

Previous correspondence to the Humboldt County Planning Department and the local Coastal Commission office has demonstrated the inherent error within 3.41E(4)(d) noted above. Riparian corridors exist within Shelter Cove subdivision that do not fall within the 'green belt' lots. The 'green belt' lots cannot be wholly considered "riparian corridors", since the 'green belt' lots also contain the airport, the sewage treatment plant, and the golf course.

The appeal states "there are no provisions in the SCAP that allow for a reduction of width of the riparian corridor". However, this is in conflict with the SCAP Wetland / Riparian Buffer Meeting Notes dated 1/26/2009, a meeting which included Bob Merrill and Melissa Kraemer of the local Coastal Commission office. The purpose of the meeting was "*reconciling seemingly conflicting policies concerning ESHA under the SCAP.*" These meeting notes state:

"It was agreed that while there may not be a formally defined wetland or riparian buffer for the Shelter Cove portion of the SCAP, the ESHA policies of the Coastal Act still require consideration of these features and provide guidance for determining an appropriate buffer. Bob then noted that while no specific ESHA buffer was defined under the Coastal Act, the 1981 Statewide Interpretive Guidelines provide 'criteria for establish Buffer Areas' which indicate that 'the buffer area should be a minimum of 100 feet for small projects on existing lots (such as one single family home or one commercial office building) unless the applicant can demonstrate that 100 feet is unnecessary to protect the resources of the habitat area."

Emphasis must be made on the fact that all parties agreed there is not a formally defined riparian buffer for Shelter Cove in the SCAP.

In reference to the 1981 Statewide Interpretive Guidelines, one of the criteria in particular applies to the Lot LK situation:

6) 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 will be required as a buffer area for any new development permitted. However, if that distance is less than 100 feet, additional mitigation measures (e.g., planting of native vegetation which grows locally) should be provided to ensure additional protection. Where development is proposed in an area which is largely undeveloped, the widest and most protective buffer area feasible should be required.

Figures previously provided as a part of the County application process show that the buildings along this stream are a uniform distance from the habitat area - 40 feet. The proposed RID project has a proposed buffer over twice as large as this distance and proposes the additional mitigation of planting of native vegetation.

Recently approved projects demonstrate that the Coastal Commission is willing to accept riparian buffers less than 100 feet on projects in Shelter Cove, since these projects have not been appealed. These projects include Montelbano (CDP-08-43), which was approved with a 25 foot buffer from an adjacent creek and the Bell cabinet shop (CDP-06-17), which was approved with a 40 foot buffer from the same creek as the RID project.

A careful look at the mapping of the adjacent creek in the Montelbano case reveals the falsehood contained in SCAP 3.41E(4)(d). An RID 'greenbelt lot', Lot N, contains the beginnings of this watercourse. The watercourse then flows across several private, residentially zoned lots in Blocks 128 and 129 before entering Lot LN, another 'green belt' lot owned by the RID which is zoned NR and holds one golf course hole and fairway. Adhering to SCAP 3.41E(4)(d) would mean no riparian corridor exists for a portion of this drainage.

Lot E is an NR zoned 'greenbelt' lot owned by RID that contains the Electrical Plant for

the Shelter Cove subdivision. Lot E also has a narrow "finger", which tapers from 31 feet wide to 20 feet wide at its intersection with Upper Pacific Road, that contains an active watercourse. Using the arguments made in the appeal would mean this is the entire riparian corridor for this watercourse, which is certainly less than 100 feet. Riparian corridor protection will necessitate an individual analysis of projects on both residential and non-residential zoned lots if it is the intent of the Coastal Commission to provide protection to riparian corridors within Shelter Cove.

The project was configured as proposed because it represented the "least environmentally damaging feasible alternative." Rotating the building, as was suggested during the design process, would not have increased the creek buffer and would require much more grading and the import of fill material. This site also protects coastal views, since the proposed metal building is hidden by topography and mature vegetation from adjacent coastal viewsheds. Other proposed construction projects by the RID have met opposition because of the perceived impacts to coastal views by metal buildings such as airplane hangers or utility buildings.

The appeal states that "the protection of environmentally sensitive habitat areas, such as riparian areas, is a matter of regional and statewide concern. An examination of the entirety of Shelter Cove Subdivision and adjoining land uses shows the great degree of protection in place for coastal watersheds within this area. Shelter Cove Subdivision and a few outlying private parcels are surrounded by the King Range National Conservation Area, which includes 60,000 acres and 35 miles of coastline. Adjacent to the south end of the King Range NCA is Sinkyone Wilderness State Park, which protects another 19 miles of coastline and includes 7,800 acres. Significant watersheds and riparian corridors are protected by these 2 preserves.

1) Inconsistency with the LCP policies and standards on how to resolve uncertainties in zone boundaries

A primary concern that is listed in the appeal and expressed by Bob Merrill, director of the Eureka CCC office, is the tactic that was used for project approval. The project was approved using Humboldt County Code Section 311-8.2 which allows the Planning Commission to determine the location of a Zoning Boundary "where uncertainty exists." Concern was expressed about the precedent being set by use of this code section. It must be pointed out that this is only the second instance of a project approved in the Coastal Zone under this statute section.

The zone boundary as shown on the approved zoning map "F,G-33", runs in roughly the orientation noted in the appeal documentation. However, Section 311-8.2 **does not** state that the boundary must be determined by the scale contained on the zoning map. Section 311-8.2 states "the zone boundary lines on said zoning map or maps shall be determined by scale contained on such map or maps, and, where uncertainty exists, the zone boundary line shall be determined by the Planning Commission." The statute does not limit the Commission to a scaled location of the zone boundary; the statute continues "the Planning Commission....may interpret the zone maps in such a

way as to implement the intent and purpose of these regulations". The Planning Commission accepted the argument made by the applicant and supported by Planning staff that the intent of the zone boundary was to separate the open, usable portion of the parcel to be zoned PF from the wooded, steeper portion of the parcel to be zoned NR. This determination is perfectly valid under the statute. Nothing in the statute limits the Planning Commission's ability to determine the location of the boundary.

The applicant believes the more reasonable location for the zone boundary on this portion of Lot LK would be a roughly 50 foot offset from the top of the bank along the drainage course, which would allow for PF uses on the buildable portions of Lot LK and continue protection of natural attributes on the NR portion of the parcel. The Humboldt County Board of Supervisors concurred with this Zone Boundary relocation request and approved it by resolution adopted November, 2007. The corresponding General Plan Amendment, part of LCP Amendment No. HUM-MAJ-1-07, has been at the local Coastal Commission office under review since that time. Additional information that was requested of the County for this General Plan Amendment in December 2009 and February 2010 was sent in March 2010.

The zone boundary between PF and NR as reflected on the approved zoning map and as shown on the Site Plan approved for CDP-09-02 does not run "approximately through the middle of the existing metal building" as noted in the appeal. The existing metal building falls completely within the PF zoned portion of Lot LK and was purposely sited to avoid the NR portion of the parcel.

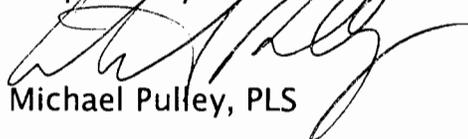
3) Inconsistency with the LCP policies and standards on permitted uses in lands planned and zoned "Natural Resources" (NR)

The proposed project is inconsistent with LCP policies and standards on permitted uses for NR zoned properties. This inconsistency is the reason for the initial Zone Boundary relocation request in 2007 and the request for the determination of the Zone Boundary by the Planning Commission. The applicant and agent, with the concurrence of Humboldt County Planning staff and the Planning Commission, believe the line separating the PF and NR zoned portions of the parcel was drawn in error. This project is predicated on the fact that the zoning boundary does not reflect conditions on the ground and does not reflect the intent of the boundary.

The Zone Boundary determination made by the Planning Commission allows the project to fall within the PF portion of the parcel. The project is a permitted use on lands planned and zoned Public Facilities (PF) and is thus consistent with the LCP policies and standards.

Thank you for your attention and consideration.

Respectfully submitted,



Michael Pulley, PLS