STATE OF CALIFORNIA -- NATURAL RESOURCES AGENCY EDMUND G. BROWN, JR., *GOVERNOR*

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

F10a

MEMORANDUM

Date: December 12, 2012

Go to to original staff report.

To: Commissioners and Interested Parties

From: Charles Lester, Executive Director
Alison Dettmer, Deputy Director
Robert S. Merrill, District Manager – North Coast District
Tamara Gedik, Coastal Program Analyst – North Coast District

Subject: **Addendum to Commission Meeting for Friday, December 14, 2012**
North Coast District Item F10a, Appeal No. A-1-MEN-09-034 (Michael Marr and Judith Malin)

Staff is making certain revisions to the staff recommendation for approval of the project with conditions mailed on November 29, 2012. Since publication of the staff report, the applicant has submitted a letter (Attachment A) objecting to Special Condition No. 11 allowing for site inspections by Coastal Commission staff for the purpose of monitoring compliance with the special conditions of the permit. Based on a subsequent review of the recommended special conditions, staff believes the objective of ensuring compliance with the special conditions can alternatively be achieved by relying on the monitoring requirements already contained in other recommended special conditions and adding a monitoring requirement to recommended Special Condition No. 16 requiring the maintenance of visual screening plantings. Therefore, staff is revising the staff recommendation to delete Special Condition No. 11 as requested by the applicant and modify Special Condition No. 16. Corresponding changes to the findings are also being made.

Since publication of the staff report, the applicant has also submitted correspondence from others in support of the project. This correspondence is attached as Attachment B. In addition, the Commission has received a letter supporting the staff recommendation from Rixanne Wehren of the Sierra Club, an appellant, which is attached as Attachment C.

Staff continues to recommend that the Commission approve the project with the special conditions and findings included in the November 29, 2012 staff report as revised by the additional modifications described below.

I. Modifications to Special Conditions.

- *Special Condition No. 11, "Site Inspection," on page 15 of the staff recommendation shall be deleted in its entirety.*

- *Special Condition No. 16, "Maintenance of Visual Screening Plantings," on page 17 of the staff recommendation shall be modified as follows:*

Text to be deleted is shown in **~~bold strikethrough~~**, text to be added appears in **bold double-underline.**

16. Maintenance of Visual Screening Plantings.

A. All plantings installed for visual screening on the parcel shall be maintained in good condition and be maintained such that the vegetation continues to screen a minimum of 70% of the structures developed at the site after the first five years following planting and throughout the life of the project. If any of the plants to be planted die, become decadent, rotten, or weakened by decay or disease and must be removed for any reason, they shall be replaced in approximately the same location at a 1:1 ratio, no later than May 1st of the next spring season, and replaced in-kind or with another native species common to the coastal Mendocino County area that will grow to a similar or greater height. All proposed plantings shall be obtained from local genetic stocks within Mendocino County. If documentation is provided to the Executive Director that demonstrates that native vegetation from local genetic stock is not available, native vegetation obtained from genetic stock outside the local area, but from within the adjacent region of the floristic province, may be used.

B. By December 31 of each year following planting of the vegetation for visual screening, the permittee shall submit to the Executive Director for review and approval a monitoring report on the success of the plantings installed for visual screening. Monitoring reports shall be submitted annually until such time that vegetation screening achieves the performance standard of screening a minimum of 70% of the structures developed on the site consistent with the requirements of Part A above and Special Condition 9(A)(iii). The report shall at a minimum: (1) document whether any of the plants that were planted pursuant to the revised landscaping plan approved by the Executive Director pursuant to Special Condition No. 9(A)(iii) and consistent with the evidence of vegetative screening installation submitted pursuant to Special Condition No. 19_have died or have become decadent, rotten, or weakened by decay or disease and either have been or must be removed and replaced for any reason; (2) document with photographs and written analysis the progress of vegetation growth towards meeting the performance standard of screening a minimum of 70% of the structures developed on the site consistent with the requirements of Part A

above and Special Condition 9(A)(iii) and provide recommendations on how to improve progress where necessary; and (3) include recommendations for additional mitigation if the performance standard and the requirements of the special conditions have not been met. If after the fifth year following planting of the vegetation for visual screening the monitoring report indicates the visual screening plantings have been unsuccessful, in part, or in whole, based on the performance standard of screening a minimum of 70% of the structures developed on the site consistent with the requirements of Part A above and Special Condition 9(A)(iii), the permittee shall submit a coastal development permit amendment application within 90 days of submittal of the monitoring report for a revised or supplemental vegetative screening program to compensate for those portions of the original visual screening plantings which did not meet the performance standard. The revised or vegetative screening program shall be processed as an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

II. Modifications to Related Findings

To accurately reflect the recommended changes to the special conditions discussed above, staff also recommends corresponding modifications to the related findings of the staff report as follows:

Text to be deleted is shown in ~~**bold strikethrough**~~, text to be added appears in **bold double-underline.**

- Modify the text to Finding I, "Visual Resources." Modify the paragraphs on the last half of page 69 and the top of page 70 as follows below:

Special Condition No. 9(A)(iii) requires the applicants to submit a final landscaping plan showing the species, size, and location of all plant materials that will be retained and newly planted on the developed site, and further requires that all proposed plantings shall be obtained from local genetic stocks within Mendocino County. **Special Condition No. 9(A)(iii)** also requires that screening vegetation be planted 30 feet from the southern elevation of each of the two approved structures and in a natural, non-linear configuration along and landward of the crown of the southwest facing cliff on the property. To further minimize the view of development from Highway One, **Special Condition No. 9(A)(iii)** requires that vegetation ~~**will**~~ **shall** ~~**substantially screen (i.e.,**~~ at **a** minimum screen 70% of~~)~~ the structures developed on the site within 5 years of planting.

To ensure that screening vegetation is planted expeditiously, **Special Condition No. 9 (A)(iii)(b)(5)** requires submittal of a landscaping schedule that demonstrates that: (1) all landscape planting shall be completed prior to occupancy; and (2) that all screening vegetation shall be planted within 60 days of the first fall/early winter period following issuance of this coastal development permit. In addition, **Special Condition No. 19** requires the applicant to submit photos to the Commission within 60 days of installation of screening vegetation that demonstrate that all screening vegetation has been planted consistent with the revised landscaping plans and with the terms of this permit.

Planted vegetation is most likely to fail during the first several years after planting. To ensure that any failure of the screening vegetation to survive and grow sufficiently to achieves the required screening of a minimum of 70% of the structures developed on the site within 5 years of planting, Special Condition No. 16 requires the applicant to submit annual monitoring reports to the Commission documenting the establishment and growth progress of the screening vegetation each successive year until such time that vegetation screening achieves the performance standard of screening a minimum of 70% of the structures developed on the site consistent with the requirements of Part A above and Special Condition 9(A)(iii). If after the fifth year following planting of the vegetation for visual screening the monitoring report indicates the visual screening plantings have been unsuccessful in screening a minimum of 70% of the structures developed on the site, the permittee must submit a coastal development permit application within 90 days of submittal of the monitoring report a revised or supplemental vegetative screening program to compensate for those portions of the original visual screening plantings which did not meet the performance standard. The revised or supplemental vegetative screening program shall be processed as an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

In addition, **Special Condition No.** ~~9(A)(iii)~~ **16** requires all plantings installed for visual screening on the parcel shall be maintained in good condition such that the vegetation continues to screen 70% of the structures developed on the site after the first five years following planting and throughout the life of the project, and shall be replaced if any die, become decadent, rotten, or weakened by decay or disease, or are removed for any reason, with another native species common to the coastal Mendocino County area that will grow to a similar or greater height.

Agenda Item #A-1Men-09-034
Marr/Malin

Alison Dettmer, Deputy Director
Bob Merrill, District Manager
North Coast District Office
710 E Street, Suite 200
Eureka, CA 95501

RECEIVED
DEC 12 2012
CALIFORNIA
COASTAL COMMISSION

Re: **Appeal No. A-1-MEN-09-34 (Marr & Malin, Mendocino Co.)**

Notice of Applicants' Objection to Special Condition #11 Site Inspection

We object to Special Condition #11 Site Inspection. By requiring that we grant the California Coastal Commission Staff or their agents the right to "inspections" and "monitoring activities" without needing to specify a concern or complaint we feel we are waiving a constitutional right, specifically the 4th amendment. This requirement seems overly intrusive on the part of a government agency.

As history buffs, we have an interest in the Constitution. The 4th amendment reads:

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

It seems to us that a government agency should have to demonstrate a particular reason and justification to enter someone's private property to a Court before taking such action.

We feel other aspects of the Special Conditions provide for monitoring. We are accepting and prepared to abide by all of the other constraints and restrictions as part of our permit. We feel we have worked diligently with the California Coastal Commission staff to satisfy all the concerns that have been raised.

We object to Special Condition # 11 for Site Inspection, because it is overly broad and requires us to waive our intrinsic Constitutional Rights. Please note our objection.

Signature on File 12.09.12
Michael R. Marr Applicant

Signature on File 12/9/12
Judith A. Malin Applicant

ATTACHMENT A

BOB HARTSTOCK DESIGNER

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

bobhart@mcn.org

TRANSMITTAL

TO: Bob Merrill &Tamara Gedik

DATE: 25 November 2012

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

PROJECT: Marr/Malin residence, 2800 Highway One, Albion

Hi Bob/Tamara.....

Enclosed are hard copies of support letters towards our project.

Thanks..

BOB HARTSTOCK, Designer
cc: Marr/Malin

ATTACHMENT B

Bob Hartstock

From: John Passyka [diverjon@mcn.org]
Sent: Wednesday, September 12, 2012 11:52 AM
To: bobhart@mcn.org
Subject: Fwd: letter for you

Begin forwarded message:

Greetings Mr. Hartstock

I am another property owner who does not have time to attend meetings. Please be aware that many of us feel like I do in our 100% support of the Marr/Malin project.
There is not just one community in Albion, there are the vocal ones who appeal any new projects and there are the silent ones...retired citizens, the commercial fishermen, the recluse. There are those just trying to survive during difficult times, those in the process of healing, and the self employed working on computers.
Mike and Judy are the kind of people with the abilities we want living in our community. An addition to those of us that have invested our life savings here and truly care about our natural beauty. When you own land you want to protect it. They will be good stewards and I'm sure their buildings will be an interesting complement to the view if only in sight for a few seconds along the highway.

John Passyka and family

Alliance
1045 College Avenue
Santa Rosa, California 95404
Office (707) 577-7777
Fax (707) 303-3733

October 29, 2012

California Coastal Commission
Attn: Executive Director Charles Lester and Chair Mary Schallenberger
710 E Street Suite 200
Eureka, CA 95501

RE: A-1 MEN-09-034

Dear Mr. Lester and Ms. Schallenberger,

As a local Sonoma County real estate broker since 1978 and a past member/chairman of the North Coast Regional Water Quality Control Board (1991-1999), I am familiar with issues that have been before governmental agencies on the North Coast.

In regard to Michael Marr and Judith Malin's attempt to complete their construction on their property in Albion, I have a few comments. In reviewing the Coastal Commission's Staff Report Appeal, it seems clear that they have gone to great lengths to satisfy the County of Mendocino and the Coastal Commission's concerns. Please approve this appeal and let them move on with no further delays as this would be a wonderful contribution to the area in Albion.

Thank you for your consideration.

Yours truly,

Ross Liscum, CRS
Broker Associate

KENNEDY
& associates
A CALIFORNIA CORPORATION

Monday, November 26, 2012

TO: California Coastal Commission
Executive Director Charles Lester and Chair Schallenberger

RE: The new home and barn for Mike Marr and Judy Malin

2800 North Highway One, Albion

This project is wonderful! It looks like the barns and farm buildings along the coast highway. The materials seem natural, and the floor plan is very efficient and well thought out. It feels like it fits perfectly on this site.

I'm a native California, born and raised in Gualala for 60+ years. My family (Bettega/Andersen) moved to the Mendocino Coast in 1919 and we have been active in building and contributing to the community ever since. I have been selling real estate in Mendocino and Sonoma counties for almost 30 years. I travel the highway numerous times a day. I have seen properties which blend with the landscape....and properties which contrast the landscape and stand out like a sore thumb.

This project brings good and sensitive design to our community. I look forward to seeing Mike and Judy become a part of this wonderful community through their volunteerism and skills.

Sincerely,

Signature on File

Patty Bettega

Broker Associate and Mendocino property land owner.

REAL ESTATE MARKETING ▲ Post Office Box 900 ▲ Gualala, California 95445 ▲ 707 884-9000
website: www.KennedyRealEstate.com ▲ e-mail: kennedy@mcn.org

Tuesday, September 11, 2012

To: Bob Hartstock
PO Box 319
TSR, CA 95497
(707) 785-2036
bobhart@mcn.org

Subject: Letter of Reference on behalf of **Michael Marr and Judith Malin**, regarding A-1-MEN-09-034 *de novo*

To Whom It May Concern:

My name is Daniel Elias Malin, son of Judith Malin and longtime friend of Mike Marr, currently serving as a Community Economic Development Volunteer with the United States Peace Corps in the Dominican Republic. I have spent the last two years designing and implementing an ecotourism project in my host-community, together with my Dominican counterparts.

Over the years, I have had the pleasure to watch Mike transform our family home from its grey and neglected state into a beautiful, mohogany-colored house that blends effortlessly with the surrounding forest. He has always made a special effort to use simple, elegant designs in his woodwork that conform to their environments—often using hand-picked natural materials.

As a lifelong conservationist and a community activist, I understand the need to preserve natural, open spaces for future generations. That's why I do not hesitate to support Mike's effort to build a home on his property. He would do an excellent job at maintaining the land's natural beauty and I am certain that their future home will ensure that it stays protected for many years to come.

Thank you for your consideration,

< Signature on File

Daniel Malin
U.S. Peace Corps
Dominican Republic (10-12)
Daniel.e.malin@gmail.com

North Coast
SUPPORT A-1-MEN-09-034 Michael Marr & Judith Malin in Albion

November 11, 2012

California Coastal Commission
Mailed & Via FAX (415) 904-5400

Re: **SUPPORT A-1-MEN-09-034 Michael Marr & Judith Malin in Albion**

To Whom It May Concern,

Our Albion and coastal communities need more well thought out responsible homes built like the one proposed by Mike Marr and Judy Malin.

We ***strongly*** support the Marr/Malin proposed single family home and barn project for the following reasons:

1. The project **conforms to the Coastal Act** including but not limited to size, height, color, setback, environmental protection, and visual resource requirements.

2. There are **no other economically viable uses** of the property due to it's location, steep topography and size.

3. Economically **viable agriculture is no longer possible** along the coast in this area due to lack of infrastructure, low producing wells, salt spray, & domestic dogs

4. **Environmentally sensitive habitat can be best protected** through development with set back constraints.

5. Environmental impact is minimal and **appropriate mitigations** have been proposed and accepted.

6. **Lead agency approval:** Mendocino County Coastal Permit Administrator has approve the project with legally required notification and public comment.

7. This project will provide much **needed construction jobs** and be an on going **economic boost** to our community.

The proposed single family home and barn will be a delightful visual reminder of our long past agricultural heritage. As neighbors we are excited to be able to watch this lovely home being built, providing much needed jobs.

Regards,

Carol Smith
3500 North Highway One, Albion
CarolSmith2@gmail.com

Tom Sisto
1124 Sterling Gate Drive
San Jose, California 95120
tom_sisto@hotmail.com

California Coastal Commission
North Coast District Office
710 E Street, Suite 200
Eureka, CA 95501-1865

September 10, 2012

Re: Appeal No. A-1-MEN-09-034

Dear Honorable Chair Shallenberger and Commissioners:

This letter of recommendation is in support of approving that Michael Marr and Judy Malin be permitted to move forward with their home building project in Albion, CA. Specifically, I am addressing the character of the applicants and commenting on what I have witnessed in terms of Michael's woodworking business, his personal residence home building projects and Judy's commitment to the community.

I have known Michael for 49 years having grown up together in Massachusetts. In addition to being an extremely honest and trustworthy individual, Michael has always been committed to the environment as a result of being very conscious of the beauty in nature. This can be seen in the style and quality of his woodworking business portfolio at http://www.michaelmarrwoodworks.com. In addition, I can attest to the fact that the personal residences he built in Sea Ranch, CA and Martha's Vineyard, MA were specifically designed to blend into the environmental landscape.

While I have known Judy for a shorter period of time, I've seen that Judy is also a dedicated environmentalist. In addition, Judy has a strong commitment to community and service having built a lifetime career working for the State of Rhode Island as a mental health care professional. Working as a team, I know that Michael and Judy are committed to building a home that not only meets the requirements of the commission, but that also serves to enhance the beauty of the landscape.

Based on my discussions with Michael and Judy, and having reviewed the appeal document, it appears that they have patiently worked through the approval process and have adjusted their project plans on multiple occasions to meet the community zoning requirements. Based on the project site plans and my experience seeing Michael's past work, I am confident that this home will be very favorably received by those living in Albion. More importantly, the town will be very fortunate to have Michael and Judy as new residents and neighbors serving the local community.

For these reasons I strongly urge the commission to approve this project. Thank you for your thoughtful consideration.

Very truly yours,

Signature on File

Tom Sisto

Bob Hartstock
36455 Timber Ridge Road
The Sea Ranch, CA 95497

21 November 2012

TO: THE CALIFORNIA COASTAL COMMISSION
North Coast Office
710 E Street, Suite 200
Eureka, CA 95501
District Manager: Bob Merrill

REGARDING: The Marr/Malin Residence
2800 North Highway One
Albion, CA 95410
Appeal: A-1-MEN-09-034

Dear Mr. Merrill:

I support this project. The design is a good example of building a home which harmonizes with the natural setting and building traditions of the region. It responds to the forces of the sun and wind and forms an appropriate fit with the typography and existing vegetation. It does not project a grand Architectural statement, but seeks to blend in to the existing environmental setting and the historical context.

The design is simple without being plain, and yet it has a strong presence without being aggressive. It is an appropriate response to the site and its settings.

The barn and house are clustered together to preserve large areas of open space. The buildings are wrapped in a limited palette of dark, natural materials.
Landscaping will reinforce the character of the site and screen the buildings with indigenous plantings along the western and southern edges of the buildings.

Its been a pleasure working with CCC staff towards refining the design and addressing the concerns of several individuals.

Sincerely.....BOB HARTSTOCK

From: Steve Sahr [stevesahr@gmail.com]
Sent: Tuesday, September 25, 2012 5:42 PM
To: bobhart@mcn.org
Subject: Fwd: Michael Marr and Judy Malin's project review.

Sent from my iPhone

Begin forwarded message:

> **From:** Steve Sahr <stevesahr@gmail.com>
> **Date:** September 25, 2012 6:01:07 PM EDT
> **To:** "whitey@whiteymarr.com" <whitey@whiteymarr.com>
> **Subject: Michael Marr and Judy Malin's project review.**
>
> Dear Mr. Hartstock,
>
> Earlier this month I received a request from a dear friend of mine to look over his architectural and elevation drawings of his proposed residence on Highway One, south of Albion CA. It is with great pleasure to put a word or two in favor of Michael and Judy's project. First I would like to give honor and praise for Michael's character and determination. He has been an unending friend to me since I have known him since 1995. We met in a place of his previous residence on the island of Martha's Vineyard where I currently live and work. At the time I met Michael he was progressing on what was at one time his own tireless efforts of constructing a beautiful and peaceful dwelling. It was surrounded by carefully placed walkways and stone facades that were his own efforts. Moss gardens, natural drainage through his own concrete castings of curbs leading to pools of water. The outside of his residence was a very blissful place to spend time. His skill as a carpenter, woodworker and mason was evident on the inside and out of his modest timber framed home. All of the work on his own house was of his design and his knowledge and determination. It is a home that is appreciated by its new owner as a property that conforms and blends naturally with the surrounding landscape.
> While Michael constructed his home he also worked locally in the community partnered with a man who later became the local town building inspector in Oak Bluffs and Aquinnah MA. Michael also served on the Chilmark Fire Dept. as a volunteer.
> Michael is very qualified, determined and able to build the new residence he desires in California. Michael is some one the local community will come to appreciate in their community. I have no doubt he will continue to be the selfless friend to others that he has been to me.
> I noticed that Michael has had to go through some delays regarding the approval of his project. I hope this hearing will be his last and

Bob Hartstock

From: Ellen-Alisa Saxl [ellenalisa26@gmail.com]
Sent: Sunday, September 09, 2012 9:37 PM
To: bobhart@mcn.org
Subject: Marr-Malin Property

9-10-12

Dear Mr. Hartstock and the California Coastal Commission:

Having reviewed your staff report and studied the site plans for the Marr/Malin property I appreciate the solutions that have evolved to the benefit of all concerned parties, and applaud your conscientious process. The home and barn will be not only unobtrusive, but nestle into the landscape in a balanced and pleasing manner.

You will find Mike and Judy to be good neighbors and respectful stewards of this precious land.

Sincerely,

Ellen-Alisa Saxl

8205 Kincross Drive

Boulder, CO

Bob Hartstock

From: Janie Tate [Janie@SeaAngel.org]
Sent: Monday, September 10, 2012 7:15 PM
To: bobhart@mcn.org
Subject: Appeal# A-1-MEN-09-034 in Albion

Dear Mr Hartstock,

Thank you and your team for a sensitive and reasonable report on Mr. Marr's project here.
I know it could not have been a pleasant experience dealing with people here that appear to represent all the residents when so many of us are too busy to attend meetings.

In my opinion Mr. Marr would be a fine and compatible addition to the community. He is an artist and a nature lover and would never present a threat to the environment on his land. I think his project would not hurt the public view of the meadows and forest it adjoins. I look forward to watching the development as it progresses.

sincerely ,
Janie Tate
property owner

Bob Hartstock

From: m^2 [whitey@whiteymarr.com]
Sent: Wednesday, October 17, 2012 4:47 AM
To: BOB
Subject: FW: ALBION

-----Original Message-----
From: ekcburgess@aol.com [mailto:ekcburgess@aol.com]
Sent: Wednesday, October 17, 2012 7:33 AM
To: whitey@whiteymarr.com
Subject: ALBION

Eleanor Burgess
29 Longfellow Rd
Jamestown, RI 02835
10/17/2012

to: Executive Director Charles Lester and Chair Schallenberger

My name is Eleanor Burgess. I reside in Jamestown, RI and have employed Michael Marr for numerous jobs on my property for the last several years.

I have been apprised of Mike & Judy's project over this period of time and have kept track of the events et al. I am familiar with the design and the region regarding Mike and Judy's plans. I am also very fond of this region.

It is my view that this would be an excellent contribution to the setting of Albion.
Please accept my support of this project

Sincerely,
Eleanor Burgess, MCP

Bob Hartstock

From: m^2 [whitey@whiteymarr.com]
Sent: Tuesday, October 23, 2012 5:10 PM
To: BOB
Subject: albion project for marr/malin

To whom it may concern,

My name is James A. Morgan. I am president and owner of my landscape business Morgan Stone and Landscape here on Martha's vineyard. I've been friends with Mike for about 18 years and was very dishartened to hear that he's had so much opposition towards getting this project started. I've seen his work and the

last thing he would do is put up a tacky shack! It will totally fit into the landscape and will enhance the beauty of the surrounding areas. The neighbors should be honored to have someone like Mike Marr as a neighbor as I did when

he lived here. I hope to someday soon help Mike with the building of his home and see the beauty of this land.

Sincerely,
James Morgan

Dec. 1, 2012
Permit No A-1-Men-09-034
Appl. Michael Marr & Judith Malin
APN 123-350-06
In favor of project

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

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DEC 03 2012
CALIFORNIA
COASTAL COMMISSION

Executive Director

I am Earl Latham and live in Albion about one mile out Albion Ridge Rd. I also own a parcel of land immediately across Hwy one from the parcel being developed.

I have followed the County's and your activities on this project. I feel the County has done good work on this project and fully support their approval.

Sincerely

Signature on File

Earl R Latham
33,100 Albion Ridge Rd.
P. O. Box 730
Albion, CA 95410
(707) 937-5573

RICHARD A. SEALE, LAND SURVEYOR

420 Redwood Ave., Fort Bragg, CA 95437 TEL (707) 964-4265, FAX (707 964-4265

Nov. 29, 2012

I am writing in support of the Marr application to build a single family residence. The property is an existing smaller parcel on the East side of State Highway One. The proposal is for the house to be set back in the property, not right on the highway. The neighborhood is developed. There are homes immediately to the West and a large subdivision of homes to the Southwest. The original design of the proposal has been adjusted to a smaller version. The tests on the property should permit the building to exist on this County legitimate parcel.

I am in agreement with this application as there are no known bureaucratic reasons for this to be denied.

Sincerly

Signature on File

Dec. 1, 2012
Permit No A-1-Men-09-034
Appl. Michael Marr & Judith Malin
APN 123-350-06
In favor of project

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

Executive Director

I am Earl Latham and live in Albion about one mile east Albion Ridge Rd. I also own a parcel of land immediately across Hwy one from the parcel being developed.

I have followed the County's and your activities on this project. I feel the County has done good work on this project and fully support their approval.

Sincerely,

RECEIVED
DEC 06 2012
CALIFORNIA
COASTAL COMMISSION

Earl R Latham
33,100 Albion Ridge Rd
P. O. Box 730
Albion, CA 95410
(707) 937-5573

December 5 2012
Permit No: A-1-Men-09-034
Appl: Mike Marr and Judith Malin
APN: 123-350-04
In favor of project

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

Dear Mr. Merrill:

I lived and worked on the California coast several years ago and still visit frequently. A highlight of my time there is driving up the coast highway for the beauty of the ocean and the rural landscape of barns and grazing cows and sheep.

When I first saw this project for Mike and Judy I was attracted to the simple lines of the buildings, the touch of rural context and the sensitive approach to developing the land.

As a practicing Architect, I fully understand balancing the needs of a client with environmental concerns as well as the aesthetic and historical context. I support this project. It is a good example of living lightly on the land, with modest buildings, simple designs and understated materials. I believe this is an example where the built environment can enhance the natural environment.

Respectfully,

Signature on File

Kelsey A. Krause, AIA
3328 Beech Avenue
Baltimore, MD 21211

jane kelley
BOOKKEEPING
A Division of Hall Kelley Organization, Inc.

p.o. box 617
39138 cypress way
gualala, california
95445-0617

tel 707 884 9580
fax 707 884 9581
e-mail jane@janekelley.biz

December 7, 2012

RECEIVED
DEC 10 2012
CALIFORNIA
COASTAL COMMISSION

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

Re: Permit #A-1-Men-09-034, Michael Marr/Judith Malin, APN 123-350-04

Dear Mr. Merrill,

I am a twenty year plus resident of Gualala and have known Michael Marr almost as long. I am fully aware of his exceptional design and construction talents as I was able to watch him build his Sea Ranch house along with watching him help construct the home I was having built in Gualala during the same time period.

The above noted project in Albion is again an exceptional design that, once finished, will set on the land looking as if it's always belonged there. Michael and Judy along with their designer, Bob Hartstock, have obviously put much thought in how this project will impact the land and fit with the existing structures in the area.

I totally support this project inclusive of the house, barn and shop. I hold the upmost belief that the Coastal Commission will also support this project 100% and I would expect that the Coastal Commission would encourage more projects of this sort for our Mendocino coastline.

I look forward to your approval and to having Michael and Judy as neighbors once again. They are the type of people that are a credit to our community.

Regards,

Signature on File

Jane Kelley
Jane Kelley Bookkeeping
PO Box 617
Gualala CA 95445
707.884.9580

Gualala Nursery and Trading Company

38660 South Highway One
Gualala, CA 95445

Permit No: A-1-Men-09-034
Applicant: Mike Marr and Judith Malin
APN: 123-350-04

In support of project

California Coastal Commission
North Coast District Office , Bob Merrill Director
710 E St., Suite 200
Eureka, CA 95501

Dear Mr. Merrill:

We support this project.
My wife Susan and I run Gualala Nursery and Trading Company and have been members of this community for 20 years. We sell plants and gifts at our store and run a landscape business from Timber Cove to Mendocino. We know this area and appreciate quality design and sensitive development to our coastal landscape.

The buildings are handsome and simple. I appreciate that they preserved the Grand Fir forest to the East and built northerly from the bluff edge. The barn design is like the many barns up and down the coast and the house is small compared to some of the trophy houses in the area. Simple is better in buildings and landscapes.

This project is a positive addition to the landscape. We support their efforts.

Sincerely,

Tony Ventrella

Signature on File

December 5 2012
Permit No: A-1-Men-09-034
Appl: Mike Marr and Judith Malin
APN: 123-350-04
In favor of project

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

Dear Mr. Merrill:

I have worked with various designers on the CA coast for several years and still visit frequently. A highlight of my time there is hiking trails along the coastal bluffs and into the hills, exploring tidal zones, and admiring the rural landscape with barns and grazing cows and sheep.

When I first saw this project for Mike and Judy I was captivated by the non-aggressive horizontal lines of the buildings, the contextually sympathetic nature of the organization of the building forms, the expression and enhancement of rural context and the sensitive approach to developing the site. As a member of the design team, it has been a pleasure to respond to the coastal commission staff recommendations, further refining the building design, and incorporating site elements to encompass the needs of the whole environment.

As a practicing Architect, I fully understand balancing the needs of a client with environmentally concerns and historic context. I support this project. It is a great example of living lightly on the land and less is more, with modest buildings, simple designs and understated, context based materials.

Respectfully,

Signature on File

Andrew L Scheidt, Architect, NCARB
57 N. Polk St
Eugene, OR 97402

SIERRA CLUB
FOUNDED 1892

Sierra Club, Mendocino Group
Coastal Committee
27401 Albion Ridge Rd.
Albion, CA 95410

RECEIVED
DEC 1 2 2012
CALIFORNIA
COASTAL COMMISSION

Dec. 12, 2012

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

Re: Permit Amendment Request No. A-1-MEN-09-034 (Marr/Malin)

Dear Commissioners,

The Sierra Club, Mendocino Group, would like to comment on the *de novo* staff report on the Marr/Malin project. We were the original appellants on the project and have followed it since 2008. At the time, we had strong objections to the height and design of the house and barn, and the placement in the highly scenic area in full view of Highway 1. Additionally we were concerned with the ESHA degradation by the driveway.

We have now read the staff report for the new hearing and find that the size and height of the building has been thankfully reduced and the siting has been improved. While still a major intrusion on the highly scenic viewshed, the improvements have been significant and show a willingness on the part of the owners to moderate their impact on the neighborhood. The Conditions added to the project will aid in limiting the impact through recommended materials and lighting, screening, and monitoring.

While the driveway is still problematic, a thorough investigation of any alternatives and a discussion of the necessity to avoid a "takings" have shown the need for approval of some driveway. With this in mind, the wetlands mitigation and monitoring plan is essential for guiding the driveway construction. We encourage the Commissioners to require all of the Conditions related to wetlands, scenic views, and future projects. The Sierra Club requests that the monitoring plan and subsequent reporting be made available for our review as well.

We would like to commend the CCC staff for their concern, thoughtful deliberation, and tenacity in helping to bring this project into closer compliance with the Local Coastal Program and the goals of the Coastal Act. We will not be presenting objections at the hearing, and support the recommendations of the staff.

Sincerely,

Signature on File

Rixanne Wehren, Chair, Coastal Committee

ATTACHMENT C

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

F10a

Appeal Filed:	7/27/09
49th Day:	9/14/09
Staff:	T. Gedik-E
Staff Report:	11/29/12
Hearing Date:	12/14/12

REVISED STAFF REPORT: APPEAL *DE NOVO*

Appeal No.:	**A-1-MEN-09-034**
Applicants:	**Michael Marr and Judith Malin**
Appellants:	Albion Residents Association and the Sierra Club
Local Government:	County of Mendocino
Local Decision:	Approval with Conditions
Location:	Approximately ¼ mile south of Albion and immediately north of Salmon Creek, on the east side of Highway One at 2800 North Highway One, Mendocino County (APN 123-350-06)
PROJECT DESCRIPTION (as amended *de novo*):	(1) Develop a residence with a total building coverage of approximately 4,759 square feet including: a 2,719-square-foot structure containing a single-story house with an attached garage and covered porches with decks; (2) a detached 2,040-square-foot accessory structure containing a garage/workshop, a guest cottage to be occupied as a temporary residence before and during construction of the proposed residence, and a covered porch; (3) an 870-foot-long driveway with an upgraded encroachment onto Highway One; (4) placement of a temporary construction trailer; (5) a septic disposal system; (6) a water well and a 2,000-gallon water storage tank; (7) a 6-foot-tall cedar fence enclosing a courtyard and propane tank near the

	house; (8) two liquefied petroleum gas (LPG) tanks, one behind a proposed five-foot tall fence near the northwest side of the workshop, and one north of the residence; and (9) a wetlands creation and enhancement proposal to mitigate for direct wetland impacts.
Staff Recommendation:	Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

The project site is located approximately ¼-mile south of the small rural town of Albion and directly north of the Highway One bridge over Salmon Creek, east of and adjacent to Highway One. The project site is located on a 4.17-acre Range Lands-zoned parcel within a designated highly scenic area. The applicant proposes to construct a single-family residence with an attached garage, and a separate workshop/garage/guest cottage on the subject parcel. In addition, the proposed project includes development of a driveway that will serve the subject parcel and that will be constructed within a 40-foot-wide easement on the adjacent parcel.

The *de novo* portion of the hearing was originally scheduled to occur at the September 13, 2012 Commission meeting in Mendocino County. On September 5, 2012, the applicants exercised their one-time right to postpone the *de novo* portion of the hearing pursuant to Section 13073(a) of the Commission's Regulations. The Commission was able to view the site from adjacent Highway One on September 12 during a Commission field trip.

Both the original and current staff reports recommend approval of the coastal development permit with conditions. The current staff report requires additional landscape screening that is acceptable to the applicants and makes other minor changes as discussed in Finding A.

Major issues associated with the consistency of this project and the policies of the Mendocino County certified local coastal program (LCP) include potential adverse impacts to wetland ESHA, agricultural resources, and visual resources.

Regarding wetland ESHA, the proposed driveway construction to serve the residential development will occur within 50 feet of wetland ESHA and result in the direct filling of 500 square feet of Coastal Act wetlands. Staff believes that direct adverse impacts to wetland ESHA from the proposed development are not avoidable. Because a driveway for residential use is not an allowable form of development in wetlands and the proposed project would significantly degrade the wetland ESHA, the proposed development is inconsistent with the provisions of the LCP. However, consistent with the mandate of Coastal Act Section 30010, since any economic use of the subject property would necessitate a driveway through and adjacent to the wetland, staff recommends approval of the driveway in order to provide for a reasonable use of the property that will avoid an unconstitutional taking of private property for public use. In order to comply with the otherwise applicable requirements of the LCP, **Special Condition No. 10** includes requirements for wetland creation and enhancement measures to mitigate all significant adverse environmental effects in and adjacent to wetland areas to the greatest extent feasible.

Regarding agricultural resources, approximately 1.67 acres of the 4.17-acre site is neither ESHA nor comprised of steep slopes and is thus useable for agriculture. While the Mendocino County

LCP (**Appendix G**) allows a single family residence on agricultural lands as a principally permitted use, neither the single family residence nor the accessory structures serve an agricultural purpose. Therefore, the proposed conversion of agricultural lands to residential uses is only allowed by the LCP if continued *or* renewed agricultural use is not feasible (as defined in CZC Sections 20.532.100(B)(3) and 20.524.014(C)(3)). The applicants have submitted an agricultural analysis which demonstrates that it is not *economically* feasible to renew agricultural use of the site, because the 1.67 useable acres of agricultural land would provide a gross annual yield of only $812 total- or $486 per acre, even assuming the applicants use unpaid family labor living on site. Therefore, staff recommends the Commission approve the proposed residential development as a permissible conversion of agricultural land. With the reduced development footprint submitted by the applicants for *de novo* review, the pressure placed on the land values of agricultural lands in the area by developing the subject parcel for a residential use is minimized. To help further reduce potential conflicts between the residential use and the adjacent agricultural lands, Commission staff recommends **Special Condition Nos. 1** and **2** that impose a right-to-farm provision and a deed restriction, respectively. In addition, **Special Condition No. 14** requires a coastal development permit amendment for any future improvements or changes to the approved development to ensure all development remains compatible with continued agricultural use on surrounding land.

Regarding visual resources, LUP Policies 3.5-1 and 3.5-3 and CZC Section 20.504.020(D) require in part that new development in highly scenic areas be visually compatible with and subordinate to the character of its setting (see **Appendix I**). The immediate setting east of the highway consists of mostly undeveloped rangeland and Grand Fir forest with virtually no other development visible. The applicants have revised their project for the purposes of the Commission's *de novo* review to reduce both the size and height of the house and the workshop/garage/guest cottage structure. The resulting design addresses visual subordination requirements by not only reducing the overall height, profile, and footprint of the development, but also clusters the buildings more closely together and against a backdrop of existing trees. To facilitate further screening of the proposed development, the applicants have additionally proposed to plant native vegetation landward of the bluff edge, which is reflected in **Special Condition 9(A)(iii)**. Commission staff also recommends **Special Condition No. 15** to restrict the color and type of exterior materials allowed and limit the type and use of exterior lighting.

Finally, **Special Condition No. 14** expressly requires all future improvements to the approved development to obtain a coastal development permit amendment so the Commission will have the ability to review all future development on the site to ensure that future improvements will be sited and designed in a manner that would protect coastal views from public vantage points and remain subordinate to the character of its setting.

Commission staff recommends **approval** of CDP application A-1-MEN-09-034, as conditioned.

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Exhibit 15 – Agricultural Analysis Report
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Exhibit 17 – Comment Letters Submitted by Applicant

I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve Coastal Development Permit No. A-1-MEN-09-034, subject to conditions, pursuant to the staff recommendation.

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

Resolution:

The Commission hereby approves coastal development permit A-1-MEN-09-034 for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the certified Mendocino County LCP. Approval of the permit complies with the California Environmental Quality Act because either: 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment; or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

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

2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.

4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Right-to-Farm**. By acceptance of this permit, the Permittee acknowledges and agrees: (a) that the permitted residential development is located on and adjacent to land used for agricultural purposes; (b) users of the property may be subject to inconvenience, discomfort or adverse effects arising from adjacent agricultural operations including, but not limited to, dust, smoke, noise, odors, fumes, grazing, insects, application of chemical herbicides, insecticides, and fertilizers, and operation of machinery; (c) users of the property accept such inconveniences and/or discomforts from normal, necessary farm operations as an integral part of occupying property adjacent to agricultural uses; (d) to assume the risks to the Permittee and the property that is the subject of this permit of inconveniences and/or discomforts from such agricultural use in connection with this permitted development; and (e) to indemnify and hold harmless the owners, lessees, and agricultural operators of adjacent agricultural lands against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from or in any way related to the property that is the subject of this permit.

2. **Deed Restriction.** PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-09-034, the applicants shall submit for the review and approval of the Executive Director, documentation demonstrating that the applicants have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions, and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

3. **Open Space Restrictions.**

   A. No development, as defined in Section 30106 of the Coastal Act, shall occur in the open space area generally depicted on **Exhibit No. 9**, which includes all

designated areas of the subject parcel within the Grand Fir Forest ESHA and a 100-foot ESHA buffer adjacent to the Grand Fir Forest ESHA, except for:

(i) The development of the southeast corner of the garage/workshop/guest cottage building and a portion of the septic system leachfield in areas no closer than 50 feet from the Grand Fir Forest ESHA in the configuration and locations approved by the Commission herein under Coastal Development Permit No. A-1-MEN-09-034.

(ii) Removal of non-native vegetation; and

(iii) The following development, if approved by the Coastal Commission as an amendment to this coastal development permit: vegetation clearance if required by the California Department of Forestry and Fire Protection (CDF) to meet fire safety standards; planting of native vegetation to improve the habitat value of the open space area generally, and removal of debris and unauthorized structures.

B. PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOTICE OF INTENT TO ISSUE COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-09-034, the applicants shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal metes and bounds legal description and graphic depiction drawn to scale and prepared by a licensed surveyor of the portion of the subject property affected by this condition, as generally described above and shown on Exhibit No. 9 attached to this staff report.

4. **Demonstration of Adequate Property Rights to Perform Wetland Mitigation.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, written evidence that all property owners whose land will be affected by implementation of the revised wetland mitigation plan approved pursuant to Special Condition No. 10 (including the California Department of Transportation (Department) and the current owner of APN 123-350-09), have granted all necessary rights to the applicant to implement both the development of the property and the required mitigation as conditioned by the Commission.

5. **Second Structure Restrictions.** The following restrictions shall apply with respect to the detached guest suite and workshop:

A. The guest cottage space located within the workshop building shall not exceed 640 square feet.

B. The guest cottage space shall only be used by the occupants of the primary dwelling on the property or their guests. Any rental or lease of the detached guest suite and workshop separate from rental or lease of the main residential structure, whether compensation be direct or indirect, is prohibited;

C. The detached guest cottage and workshop may be used as a residence with cooking or kitchen facilities only during construction of the main residence and only until an occupancy permit is granted by Mendocino County for use of the main residence. The detached guest suite and workshop shall not be subsequently converted into a residence or second unit;

D. All cooking and/or kitchen facilities must be removed from the guest cottage and workshop within 60 days of completion of the main residence;

E. The owner shall obtain a building inspection of the guest cottage and workshop to verify all such areas have been removed.

6. **Temporary Construction Trailer.**

A. **Restriction**. The temporary construction trailer must be removed within 60 days of completion of the residence.

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

A. All final design and construction plans including foundations, grading, retaining walls, and drainage plans, shall be consistent with the recommendations contained in the Geotechnical and Geologic Investigation dated June 2008 and prepared by SHN Consulting Engineers & Geologists, Inc. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-09-034 the applicant shall submit, for the Executive Director's review and approval, evidence that a licensed professional (Certified Engineering Geologist or Geotechnical Engineer) has reviewed and approved all final design, construction, foundation, grading and drainage plans and has certified that each of those plans is consistent with the bluff setback and all of the recommendations specified in the above-referenced geotechnical reports approved by the California Coastal Commission for the project site.

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

8. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees: (i) that the site may be subject to hazards from landslide, erosion, subsidence, and earth movement; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

9. **Revised Plans.**

A. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-09-034, the applicant shall submit final revised plans to the Executive Director for review and approval. The revised plans shall include a site plan, floor plan, building elevation views (two sheets), Erosion and Drainage Runoff Control

Plan, and Landscaping plan, and shall conform to the plans dated January 11, 2011 except that the plans shall be revised to provide for the following changes to the project:

(i) Site Plan Revisions

a. The plans shall depict the main residence with a minimum setback of 40 feet from the bluff edge, and septic leach lines a minimum setback of 50 feet from the bluff edge, and outside of the open space area as required pursuant to **Special Condition No. 3.**

b. The site plan shall depict runoff and drainage conveyance systems that are consistent with the provisions of the erosion and runoff control plan required below.

c. The "barn floor plan" (i.e., guest cottage and workshop) shall depict that cooking facilities are temporary and shall be removed within 60 days of completion of the primary residence.

d. The plans shall depict the siting of all structures 30 feet from property lines, unless the applicant submits written evidence to the Executive Director that CalFire authorizes a reduction in their minimum 30-foot defensible space setback for all structures from property lines.

(ii) Erosion and Drainage Runoff Control Plan

a. The plans shall include an erosion and drainage Runoff Control Plan that incorporates design elements and/or Best Management Practices (BMPs) which will serve to minimize the volume and velocity of stormwater runoff leaving the developed site, and to capture sediment and other pollutants contained in stormwater runoff from the development, by facilitating on-site infiltration and trapping of sediment generated from construction. The drainage plan shall include a site map showing drainage features relating to the structure footprint (including roof and sidewalk runoff from house and garage), driveway, decking, and any other physical structures associated with development. The final runoff control plans shall at a minimum include the following provisions:

1. Soil grading activities shall be restricted to the dry-season between April 15 and October 14;

2. A physical barrier consisting of silt fencing and/or bales of straw placed end-to-end shall be installed downslope of any construction areas. The bales shall be composed of weed-free rice straw, and shall be maintained in place throughout the construction period;

3. Native vegetation at the site shall be maintained to the maximum extent possible. Any disturbed areas shall be replanted with low-growing herbaceous native vegetation that conforms with the planting limitations of **Special Condition Nos. 9(A)(iii)(3) and 9(A)(iii)(4)**, immediately following completion of ground-disturbing activities, and covered by jute netting, coir logs, and/or rice straw;

4. The washing-out of concrete delivery vehicles, disposal of solid waste, or release of any hazardous materials on the parcel shall be prohibited, and any accidental spill of such materials shall be promptly cleaned up and restored;
5. Runoff from impervious surfaces including but not limited to rooftops shall be collected and conveyed to a drainage sump, rain garden, rain storage barrel, rock gabion, or other facility designed for collection and infiltration in a non-erosive manner. Where gutters and downspouts are used, splash block velocity reducers or other collection and infiltration facilities as described above shall be incorporated, to prevent scour and erosion at the outlet;
6. Contractors shall be informed of the presence of environmentally sensitive habitat on the site and the importance of avoiding disturbance to these areas, especially with regard to erosion and runoff from the building site; and
7. All on-site construction debris stockpiles shall be covered and contained at all times.

(iii) Landscape Plan

a. The landscaping plan shall demonstrate that:

1. Unless required to abate a nuisance consistent with Coastal Act Section 30005(b), no limbing or pruning of the Grand Fir ESHA trees, or of any visually screening trees planted pursuant to the approved landscaping plan (except for pruning dead material and limbs growing toward the approved structures from the screening vegetation planted 30 feet from the approved structures as required to meet CalFire requirements) shall occur unless a permit amendment is obtained prior to the commencement of limbing and pruning;

2. Screening vegetation shall be planted in at least the following locations and densities:

i. In a natural, non-linear configuration extending for at least 100 feet along and landward of the crown of the southwest facing cliff in the locations and with a density of plantings as generally shown in the submitted site plan Sheet 3 titled "Site Plan," and dated January 11, 2011;

ii. Approximately 30 feet to the southwest of the southwest corner of the approved workshop/garage/guest suite structure consisting of a minimum of one tree and one shrub;

iii. Approximately 30 feet to the southwest of the southwest elevation of the residence consisting of a minimum of one tree and one shrub;

The screening vegetation shall substantially screen (i.e., at minimum screen 70% of) the structures developed on the site within 5 years of planting.

3. All plantings installed for visual screening on the parcel shall be maintained in good condition such that the vegetation continues to screen a minimum of 70% of the structures developed on the site after the first five years of planting and throughout the life of the project to ensure continued compliance with the approved final landscape plan. If any of the plants to be planted according to the plan die, become decadent, rotten, or weakened by decay or disease, or are removed for any reason, they shall be replaced no later than May 1st of the next spring season in-kind or with another native species common to the coastal Mendocino County area that will grow to a similar or greater height to ensure continued compliance with the landscape plan.;
4. All proposed plantings shall be native vegetation obtained from local genetic stocks within Mendocino County. If documentation is provided to the Executive Director that demonstrates that native vegetation from local genetic stock is not available, native vegetation obtained from genetic stock outside the local area, but from within the adjacent region of the floristic province, may be used;
5. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall be employed or allowed to naturalize or persist at the site of the proposed development. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property; and
6. All screening vegetation to be planted shall be a minimum of five feet high when planted and must reach a mature height of at least 10 feet for shrubs and 20 feet for trees.

b. The plan shall be prepared by a qualified professional with expertise in the field of landscaping, such as a landscape architect and shall include, at a minimum, the following components:
   1. Provisions for the planting of evergreen drought-tolerant screening vegetation in the form of shrubs and trees locally native to Mendocino County;
   2. A final landscape site plan showing the species, size, and location of all plant materials that will be retained and newly planted on the developed site, any proposed irrigation system, delineation of the approved development, and all other landscape features such as, but not limited to, topography of the developed site, horticultural plantings, decorative rock features, pathways, and berms and/or raised beds;

3. The plan shall further include a screening vegetation maintenance program (e.g., pruning, fertilizing, watering, etc.) for newly planted screening vegetation and a replacement program on a one-to-one or greater ratio for the life of the project;

4. The plan shall specify the type and mature heights of all screening vegetation to be planted and shall demonstrate that vegetation will substantially screen (i.e., at minimum screen 70% of) the structures developed on the site within 5 years of planting.

5. A schedule shall be provided for the installation of the landscaping demonstrating that all landscape planting shall be completed prior to occupancy; that screening vegetation shall be planted within 60 days of the first fall/early winter period following issuance of this coastal development permit and

6. Landscaping plan notes that include, but are not limited to, the requirements of subsection (iii)(a) above, and declaring that:

   (a) "Rodenticides containing any anticoagulant compounds, including but not limited to, Bromadiolone, Brodifacoum, or Diphacinone, shall not be used."

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

10. **Revised Wetland Mitigation and Monitoring Plan**

A. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-09-034, the applicant shall submit to the Executive Director for review and approval, a final revised wetland mitigation and monitoring plan prepared by a qualified biologist with experience conducting wetland delineations and installing wetland mitigation projects. The revised plan shall substantially conform with the mitigation plan dated August 2010, except that the plan shall be revised to include all of the following:

(i) A plan for wetlands creation to mitigate for wetland fill that shall at a minimum:

a. Identify additional existing upland areas adjacent to existing wetland areas where 2,000 square feet of new wetlands will be created to achieve a total mitigation ratio of wetlands created to wetlands filled of 4:1;

b. Demonstrate through seasonally-appropriate floristic surveys conducted by a qualified biologist, that newly created wetland features will avoid rare plant ESHA;

c. Provide a topographic plan that depicts site topography of existing wetland and adjacent upland areas;

d. Depict proposed final topographic elevations of proposed constructed wetland areas;

e. Evaluate the existing soil conditions and specify any soil preparation necessary to create soil conditions that will support the creation of wetlands;

f. Specify how the mitigation design will successfully create wetland features in upland areas;

g. Include a final plan showing the species, size, and location of all plant materials that will be planted in the wetland creation area. The selected species shall be locally native, obtained from local genetic stock, and shall be representative both in diversity and composition of those native species that currently occur in the most intact, highest-quality portion of the surrounding wetland system.

h. Include a schedule for the creation of the wetland area that demonstrates that (a) the required excavation and grading at the wetland creation site shall only commence after completion of the driveway approved under CDP No. A-1-MEN-09-034, (b) be performed during the non-rainy season between May 1 and October 15, and be completed within three months of completion of construction of the access driveway approved under CDP No. A-1-MEN-09-034, and (c) the wetland vegetation planting shall be performed between November 1 and April 15 during the first rainy season following completion of the mitigation site excavation and grading work;

(ii) A revised wetland buffer enhancement plan that shall be revised to include the following:

a. Specifications for the species, size, and location of all plant materials that will be planted in areas where exotic weeds are removed. The selected species shall be locally native, obtained from local genetic stock, and shall be representative both in diversity and composition of those native species that currently occur in the more intact areas surrounding the wetland system.

(iii) A revised mitigation monitoring plan that shall be revised to include the following:

a. A description of monitoring methods and a monitoring schedule;

b. Provisions for ensuring achievement of performance standards including (1) 100% native vegetative cover within the wetland creation area of which a minimum of 60% shall be native hydrophytic vegetation established within five years, (2) evidence of three consecutive years with no remediation or maintenance activities other than weeding; and (3) no presence of invasive exotic plants, including but not limited to bearded iris (*Watsonia bulbifera*), periwinkle (*Vinca major*), and Himalayan blackberry (*Rubus armeniacus*) in both the wetland creation and enhancement areas within five years;

c. Provisions for submittal of annual monitoring reports to the Executive Director by November 1 of each year following completion of the wetland mitigation for a minimum of five years of monitoring that shall continue until the annual monitoring demonstrates that there have been at least three consecutive years when no remediation and or maintenance activities other than weeding have been necessary. The monitoring reports shall be prepared by a qualified wetland biologist and shall evaluate whether the mitigation site conforms with the goals, objectives, and performance standards set forth in the approved final revised wetland mitigation plan. The reports shall include

1. Description of work performed on the parcel over the previous year;
2. An evaluation of the survival rate of new locally native plantings in exposed areas and percentage of native vegetation cover within the wetland creation area and within the wetland enhancement area;
3. Documentation of any new invasions of exotic species and plans for their removal or control, as necessary;
4. Photos from designated photo stations.

d. A final report shall be submitted to the Executive Director after a minimum five years of monitoring with at least three consecutive years of no remediation or maintenance activities other than weeding have occurred. The final report shall at minimum: (1) document whether all protective measures outlined in the Conditions of Approval have been met; (2) discuss the success or failure of mitigation measures applied on the site; and (3) include recommendations for additional mitigation if Conditions have not been met;

e. If the final monitoring report indicates that the mitigation project has been unsuccessful, in part, or in whole, based on the performance standard of achieving (1) 100% native ground cover with a minimum 60% native hydrophytic wetland plant species in the created wetland areas within five years, (2) three consecutive years with no remediation or maintenance activities other than weeding; and (3) no presence of invasive exotic plants, including but not limited to bearded iris (*Watsonia bulbifera*), periwinkle (*Vinca major*), and Himalayan blackberry (*Rubus armeniacus*) in both the wetland creation and enhancement areas within five years, the applicant shall submit a revised or supplemental mitigation program to compensate for those portions of the original program which did not meet the performance standard. The revised mitigation program shall be processed as an amendment to this coastal development permit.

(iv) Within 30 days of completion of the wetland mitigation work at the site, a description of the number, types, location, and condition of vegetation planted at the mitigation site shall be submitted to the Executive Director.

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

11. **Site Inspection**

A. By acceptance of this permit, the applicant irrevocably authorizes, on behalf of the applicant and all successors-in-interest with respect to the subject property, Coastal Commission staff and its designated agents to enter onto the property to undertake site inspections for the purpose of monitoring compliance with the permit, including the special conditions set forth herein, and to document their findings (including, but not limited to, by taking notes, photographs, or video), subject to Commission staff providing 24 hours advanced notice to the contact person indicated pursuant to paragraph B prior to entering the property, unless there is an imminent threat to coastal resources, in which case such notice is not required. If two attempts to reach the contact person by telephone are unsuccessful, the requirement to provide 24 hour notice can be satisfied by voicemail, email, or facsimile sent 24 hours in advance or by a letter mailed three business days prior to the inspection. Consistent with this authorization, the applicant and his successors: (1) shall not interfere with such inspection/monitoring activities and (2) shall provide any documents requested by the Commission staff or its designated agents that are relevant to the determination of compliance with the terms of this permit.

B. **Prior to issuance of the Coastal Development Permit**, the applicant shall submit to Commission staff the email address and fax number, if available, and the address and phone number of a contact person authorized to receive the Commission's notice of the site inspections allowed by this special condition. The applicant is responsible for updating this contact information, and the Commission is entitled to rely on the last contact information provided to it by the applicant.

12. **Temporary-Protective Fencing.** PRIOR TO COMMENCEMENT OF GRADING OR OTHER CONSTRUCTION ACTIVITIES**,** a qualified biologist shall place a construction barrier in the following locations: (1) immediately outside the wetland area to be impacted; (2) along the entire length of the wetland boundary adjacent to the approved driveway footprint; and (3) along the entire length of the protective buffer established around identified environmentally sensitive habitat areas as depicted on **Exhibit No. 9** of the staff recommendation. The construction barrier shall consist of temporary construction fencing or netting and shall be maintained throughout the course of construction activities. No construction related activities, including but not limited to maneuvering or parking of equipment, grading, staging or stockpiling of materials, or other ground disturbance shall be allowed to encroach into the areas protected by the construction barrier. The temporary fencing shall remain in place for the duration of construction and may be removed upon the final building inspection for the residence.

13. **Best Management Practices and Construction Responsibilities.** The permittee shall comply with the following construction-related requirements:

    A. Comply with the temporary exclusion/construction fencing requirements of **Special Condition No. 12**;

    B. Contractors shall be informed of the presence of wetland and Grand Fir ESHA on the site and the importance of avoiding disturbance to ESHA areas.

    C. All grading activity shall be limited to the dry season between April 15th and October 14th.

    D. All best management practices employed shall be effective during the rainy season (October 15 through April 14) if construction occurs during that time of year;

    E. Any and all excess excavated material and/or debris resulting from construction activities shall be removed from the project site WITHIN 10 DAYS OF PROJECT COMPLETION and disposed of at a disposal site outside the coastal zone or placed within the coastal zone pursuant to a valid coastal development permit;

    F. Weed-free straw bales, coir rolls ("wattles"), and/or silt fencing structures shall be installed prior to and maintained throughout the construction period to contain runoff from construction areas, trap entrained sediment and other pollutants, and prevent discharge of sediment and pollutants near wetland areas and downslope toward Little-Big Salmon Rivers;

    G. All on-site stockpiles of construction debris shall be located outside ESHA and ESHA buffers, and shall be covered and contained and at all times to prevent polluted water runoff;

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

    I. Any disturbed areas shall be replanted or seeded immediately with low-growing herbaceous native species following completion of construction of the residential structure and driveway, in a manner that conforms to the planting limitations of **Special Condition Nos. 9(A)(iii)(3)** and **9(A)(iii)(4)**; and

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

14. **Future Development Restrictions.** This permit is only for the development described in Coastal Development Permit No. A-1-MEN-09-034. Any future improvements or changes to the single-family residence or other approved structures shall require an amendment to Permit No. A-1-MEN-09-034 from the Commission. Such a permit amendment application shall be accompanied by written evidence and analysis demonstrating that the amended development will remain consistent with all applicable LCP provisions including the requirement that the amended development be compatible with continued agricultural use on surrounding lands and consistent with all of the visual protection provisions applicable to highly scenic areas.

15. **Design Restrictions.**

    A. All exterior siding and roofing of the proposed structure shall be composed only of the colors proposed in this coastal development permit or darker earth-tone colors. The current owner or any future owner shall not repaint or stain the house or other approved structures with products that will lighten the color of the house or other approved structures without an amendment to this permit. In addition, to minimize glare no reflective glass, exterior finishings, or roofing materials are authorized by this permit.

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

    C. All utilities serving the proposed project shall be placed underground. Following utility installation, all disturbed areas shall be contoured to mimic the natural topography of the site and revegetated with native grasses and forbs of local genetic stock appropriate to coastal Mendocino County.

16. **Maintenance of Visual Screening Plantings.** All plantings installed for visual screening on the parcel shall be maintained in good condition and be maintained such that the vegetation continues to screen a minimum of 70% of the structures developed at the site after the first five years following planting and throughout the life of the project. If any of the plants to be planted die, become decadent, rotten, or weakened by decay or disease and must be removed for any reason, they shall be replaced in approximately the same location at a 1:1 ratio, no later than May 1st of the next spring season, and replaced in-kind or with another native species common to the coastal Mendocino County area that will grow to a similar or greater height. All proposed plantings shall be obtained from local genetic stocks within Mendocino County. If documentation is provided to the Executive Director that demonstrates that native vegetation from local genetic stock is not available, native vegetation obtained from genetic stock outside the local area, but from within the adjacent region of the floristic province, may be used.

17. **Area of Archaeological Significance.**

    A. If an area of cultural deposits is discovered during the course of the project all construction shall cease and shall not recommence except as provided in subsection (B) hereof; and a qualified cultural resource specialist shall analyze the significance of the find.

    B. A permittee seeking to recommence construction following discovery of the cultural deposits shall submit a supplementary archaeological plan for the review and approval of the Executive Director.

        (i) If the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures are *de minimis* in nature and scope, construction may recommence after this determination is made by the Executive Director.

(ii) If the Executive Director approves the Supplementary Archaeological Plan but determines that the changes therein are not *de minimis*, construction may not recommence until after an amendment to this permit is approved by the Commission.

18. **Conditions Imposed By Local Government.** This action has no effect on conditions imposed by a local government pursuant to an authority other than the Coastal Act.

19. **Evidence of Vegetative Screening Installation.** Within 60 days of installation of screening vegetation, the applicant shall submit photos to the Commission demonstrating that all screening vegetation has been planted consistent with the revised landscaping plans and with the terms of this permit.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares the following:

A. STANDARD OF REVIEW AND PROCEDURES

Standard of Review

The Coastal Commission effectively certified the County of Mendocino's LCP in 1992. Since the proposed project is within an area for which the Commission has certified a Local Coastal Program and not between the first public road and the sea, the applicable standard of review for the Commission to consider is whether the development is consistent with Mendocino County's certified Local Coastal Program (LCP).

Procedures

On September 9, 2009, the Coastal Commission found that the appeal of the County of Mendocino's approval of CDP No. 57-2008 for the subject development raised a substantial issue with respect to the grounds on which the appeal had been filed, pursuant to Section 30625 of the Coastal Act and Section 13115 of Title 14 of the California Code of Regulations. As a result, the County's approval is no longer effective, and the Commission must consider the project de novo. The Commission may approve, approve with conditions (including conditions different than those imposed by the County), or deny the application. Testimony may be taken from all interested persons at the de novo hearing.

Postponement from September 2012 Hearing and Revisions to Staff Report

The *de novo* portion of the hearing on the appeal was originally scheduled for the September 13, 2012 Commission meeting in Mendocino County. On September 5, 2012, the applicants requested in writing to exercise their one right to a postponement pursuant to Section 13073(a) of the Commission's Regulations (Exhibit No. 10, page 5). Both the September meeting staff report published August 30, 2012 and the current staff report recommend that the Commission approve the coastal development permit with conditions.

On September 12, the Commission was able to view the site from both northbound and southbound directions along Highway One during the field trip scheduled as part of the Commission meeting. Following the Commission's site visit, Commission staff identified additional measures to visually screen development, namely by planting additional vegetation closer to the southwest of the approved structures.

The current staff report reflects a number of revisions to the August 30, 2012 staff report published prior to the September Commission meeting. The revisions to the staff report: (a) incorporate the requirement for the additional landscape screening (see **Special Condition** 9(A)(iii) and Finding I) and require photo-documentation of the planting of the landscape screening (see **Special Condition No. 19**); (b) clarify findings relative to Grand Fir ESHA protection (see Finding F) and property ownership where the driveway easement occurs; and (c) make minor corrections and changes throughout the report.

B. INCORPORATION OF SUBSTANTIAL ISSUE FINDINGS

The Commission hereby incorporates by reference the Substantial Issue Findings contained in the Commission staff report dated August 27, 2009.

C. SITE DESCRIPTION

The project site is located approximately ¼-mile south of the small rural town of Albion and directly north of the Highway One bridge over Salmon Creek, east of and adjacent to Highway One.

The surrounding landscape consists of rolling hills east of Highway One and uplifted marine terrace bluff-tops west of Highway One. There is very little development located on either side of the highway in the immediate vicinity of the development site with the exception of a restaurant west of Highway One about 1/8-mile north, the Pacific Reef's residential subdivision south of Salomon Creek west of Highway One and which is not readily visible from the highway, and a few other scattered residences not readily visible from Highway One on either side of the highway. Approximately one-half mile south of the Albion River, the forks of Little and Big Salmon Creeks (also characterized in some documents as Little and Big Salmon Rivers) merge into Salmon Creek immediately southeast of the project site, then drain to the ocean at Whitesboro Cove. A through-cut created for the highway spans northward between the steep hillslopes for approximately 450 feet immediately north of the Salmon Creek Bridge; the subject parcel sits atop this uplifted terrace on the east side of Highway One.

The subject Range Land-zoned parcel consists of 4.17 acres on an uplifted marine terrace that is bound to the south by the left bank of Salmon Creek. The site is within a designated highly scenic area that is bounded to the north and east by rolling hills of grasslands dotted with trees. These surrounding grasslands are similarly-zoned Range Lands, many of which are currently leased to cattle ranchers and are actively grazed. Lands zoned for residential uses occur west of Highway One on parcels ranging in size from 1 to 15 acres.

As described in the June 2008 Geotechnical and Geologic report prepared by SHN Consulting Engineers and Geologists (SHN), the parcel occurs on a gently southwest sloping stream valley wall or bluff top. The parcel slopes gently to the southwest before dropping steeply along the southern and eastern parcel boundaries. The southerly boundary of the project site abuts the crown of a southwest facing cliff that parallels the north bank of Salmon Creek. Slope gradients on the southerly cliff face range from 50% to near vertical. Vegetation along the south-facing slope includes mostly shrubs such as coyote brush (*Baccharis pilularis*), wax myrtle (*Morella californica*), and some willows (*Salix sp.*). The relatively-flat portions of the parcel are primarily dominated by non-native grassland. A grand fir forest (*Abies grandis*) extends along the eastern side of the parcel and continues downslope and along adjoining parcels. As discussed further in **Appendix E**, Grand Fir forest is recognized as an environmentally sensitive habitat area.

A 40-foot-wide easement for public utilities and access to the subject parcel occurs on the adjacent parcel to the north. The easement runs parallel and adjacent to the east side of Highway One. An existing ranch gate and unimproved road crosses the easement from the Highway One approach and serves the adjacent agricultural property to the east. A seasonally wet meadow and other Coastal Act wetlands occur within approximately 1.07 acres of the easement. In addition, several non-native species such as bearded iris (*Watsonia bulbifera*), periwinkle (*Vinca major*), and Himalaya berry (*Rubus armeniacus*) occur in portions of the easement area.

According to the County staff report and supplemental information submitted to the Commission for purposes of its de novo review, subject parcel (APN 123-350-06) was originally part of a larger ranch, the Anderson Ranch. The configuration of the lot that exists currently was created by deed in 1967, creating a presumption of legality under the Subdivision Map Act. No local Mendocino County ordinance requiring a minor land division approval existed at that time. As coastal development permit requirements first went into effect on February 3, 1972, no coastal development permit was required to create the lot in its current configuration in 1967.

D. PROJECT DESCRIPTION

As detailed below, the applicant proposes to construct a single-family residence with an attached garage, and a separate workshop/guest cottage on the subject parcel. In addition, the proposed project includes development of a driveway that will serve the subject parcel and that will be constructed within a 40-foot-wide easement on the adjacent parcel. For the purposes of the Commission's *de novo* review, the applicant submitted revised plans and other information (**Exhibit Nos. 3, 4, 5, and 6, and Appendix B**) that make changes to the development originally approved by the County. The proposed project as revised for the Commission's *de novo* review reconfigures the placement and size of structures by reducing building height and bulk, and clustering development more than the originally-approved design.

The project as revised for the Commission's *de novo* review proposes the following developments: (1) construct a 1,790-square-foot, 18'-6"-high single-story house with a 576-square-foot attached garage, and 353 square feet of attached covered porches with decks (total building footprint of 2,719 square feet); (2) construct a detached 2,040-square-foot, 19'-4"-high accessory structure containing a 1,295-square-foot garage/workshop, a 640-square-foot guest cottage to be occupied as a temporary residence before and during construction of the proposed residence, and a 105-square-foot covered porch; (3) construct an 870-foot-long gravel driveway (total area of 11,130 sq. ft.) with two turnouts (to satisfy CalFire requirements) and an upgraded asphalt apron encroachment onto Highway One; (4) placement of a temporary construction trailer; (5) construct a 6-foot-tall cedar fence enclosing a courtyard and the propane tank near the house; (6) install two liquefied petroleum gas (LPG) tanks, one behind a proposed five-foot tall fence near the northwest side of the workshop, and one north of the residence; (7) install a water well and a 2,000-gallon water storage tank; and (8) install a septic disposal system.

The applicant proposes to use the garage/workshop space to support his building contractor and woodworking skills for a home occupation of creating custom cabinetry. As indicated in a letter submitted by the applicant dated December 17, 2009, "the workshop will provide affordable space to work, store equipment and materials and earn an income. Our modest sized home will be a full time residence for Mike and Judy and their son…"

The revised project design reduces the house size by 768 square feet and reduces the height of the house by 2.5 feet. Similarly, the applicants reduced the footprint of the

workshop/garage/guest cottage structure by 98 square feet, and reduced the building height by 4.7 feet from natural grade. The house and workshop/guest cottage would be sited more than 100 feet away from the Grand Fir ESHA that occurs on the subject parcel.

The proposed house and accessory structure are located well to the south and east of the wetland that is located within the access easement on the adjacent property to the north. However, the proposed project includes construction of a driveway that runs roughly parallel to Highway One for approximately 600 feet (**See Exhibit 3**). Portions of the proposed driveway would be constructed immediately adjacent to the wetland (varying from 0 to a maximum of approximately 15 feet) and the proposed connection from the driveway to Highway One would be constructed partially within the seasonally wet meadow (See **page 2 of Exhibit 3**), resulting in a direct impact to approximately 500 square feet of wetlands.

To mitigate for impacts to wetland ESHA and ESHA buffer, the project as proposed and as revised for the Commission's *de novo* review includes a proposal to plant a 1,300-square-foot area adjacent to the existing wetland with hydrophytic plants to expand the wetland feature at a ratio of 2.6:1, and additionally proposes to enhance the existing wetland buffer by removing invasive plants covering a 5,200-square-foot area from within the wetland and adjacent buffer areas.

E. PLANNING AND LOCATING NEW DEVELOPMENT

Land Use

The subject property is located in a rural area planned and zoned for Range Lands (RL) uses. Principal uses permitted in the RL district include Single-Family Residential, Vacation Home Rental, General Agriculture, Light Agriculture, Row and Field Crops, Tree Crops, Passive Recreation, and Fish & Wildlife Habitat Management. LUP Policy 3.9-1 states that one housing unit shall be authorized on every legal parcel existing on the date of adoption of the LUP provided adequate services exist and the development is consistent with all applicable policies of the LUP.

According to Section 20.368 of the Coastal Zoning Code (CZC), the minimum lot area for the RL district is 160 acres (the subject property is a nonconforming parcel approximately 4.17 acres in size), and the maximum lot coverage for the district is 15 percent.

As defined by CZC Section 20.308.075(L)(12), "'lot coverage' means the percentage of gross lot area covered by all buildings and structures on a lot, including decks, and porches, whether covered or uncovered, and all other projections except eaves." Maximum lot coverage for Range Lands-zoned parcels between two and five acres is similarly 15%. Using this standard, the maximum lot coverage of the subject parcel, at 4.17 acres, is 27,247 square feet. The total lot coverage for the subject proposed development, including the 2,719-square-foot building envelope for the residence and garage; the detached 2,040-square-foot workshop/guest cottage; an enclosed 287-square-foot courtyard; an enclosed 281-square-foot water storage tank; and an 11,130-square-foot driveway (a portion of its coverage extends through an easement on the adjacent parcel) is 16,457 square feet (9% lot coverage).

Section 20.368.025 of the Coastal Zoning Code limits the number of residential units to one per every 160 acres. Thus, a maximum of one residential unit may be developed on the parcel. The guest cottage is proposed to be occupied as a temporary residence before and during construction of the proposed residence. As conditioned by **Special Condition No. 5**, the use of the detached

guest cottage and workshop as a residence with cooking or kitchen facilities is temporarily allowed only during construction of the main residence.

The proposed garage/workshop with guest cottage falls within the range of principally permitted uses as an accessory building and use pursuant to CZC Section 20.456.015 as cited above. Section 20.308.050 of the CZC limits the size of guest cottages to 640 square feet and prohibits the structure from containing a kitchen. While the proposed plans (**page 2 of Exhibit No. 4**) depict a cooking facility within the guest cottage, as conditioned, the detached studio and workshop shall not be subsequently converted into a residence or second unit, and all cooking and/or kitchen facilities must be removed upon 60 days of completion of the main residence.

Setbacks

The development meets the base zoning district standards requiring the establishment of a minimum 20-foot yard setback for parcels less than 5 acres within the RL zoning district. However, the 25-foot setback between the proposed garage/workshop/guest cottage does not satisfy the minimum 30-foot setback from all property lines required by California Department of Forestry and Fire Protection (CalFire). Therefore, to satisfy the Defensible Space minimum standards set forth by CalFire's Regulations (Title 14, Section 1276.01) and as recommended by CalFire's recommended Conditions for Approval dated September 22, 2008 (CDF # 315-08), the Commission requires as part of **Special Condition No. 9A(i)** that the applicant submit, prior to permit issuance, either revised plans that depict the siting of all structures 30 feet from the property lines, or evidence that CalFire authorizes a reduction in their minimum 30-foot defensible space setback for all structures from property lines.

Services

A 195-foot-deep water well and 2,000-gallon water storage tank on site will provide water service to the subject parcel. The proposed development also includes installation of a septic system sized to support a four-bedroom residence which is sufficient to serve the development. The proposed development satisfies the mandatory 25-foot setback of the septic tank from the bluff edge. The Mendocino County Department of Environmental Health (DEH) approved the adequacy of the proposed septic system.

A 40-foot by 1,063-foot long roadway and public utility easement runs adjacent and parallel to Highway One on the adjacent property to the north, and serves as the access to the subject parcel. The applicants have obtained an encroachment permit approval from CalTrans for the proposed encroachment onto Highway One.

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

Conclusion

As discussed below, the proposed development has been conditioned to include mitigation measures, which will minimize all significant adverse environmental impacts consistent with the limitations of Section 30010 of the Coastal Act. Therefore, the Commission finds that as

conditioned, the proposed development is consistent with LUP Policies 3.9-1 and 3.8-1 and CZC Section 20.532.095 because (1) development of the site as a single-family residence was envisioned under the certified LCP; (2) the development is within the range of principally permitted uses in the Range Lands zoning district; (3) there are adequate services to serve the proposed development, and (4) the development will not significantly contribute to adverse cumulative impacts on highway capacity, or, as discussed in the Findings below, on scenic values, geologic hazards, environmentally sensitive habitats, water quality, or public access, and is compatible with the long-term protection of resource lands of the RL zoning district.

F. ENVIRONMENTALLY SENSITIVE HABITAT AREAS (ESHA)

Results of Biological Assessments

Biological consultant William Maslach prepared a Botanical Survey and ESHA Assessment dated November 2007 that was subsequently revised in February 2009 (**Exhibit 11)**. The assessment included a seasonally and floristically-appropriate survey for sensitive plant occurrences. Mr. Maslach also delineated wetlands at the subject site as part of the 2007 evaluation consistent with the definition of wetlands contained in the Coastal Act and its implementing regulations and used the procedures outlined in the 1987 Army Corps of Engineers Wetlands Delineation Manual[1].

The surveys identified the following ESHAs: (1) approximately 1.1 acres of Grand Fir forest (*Abies grandis*) on the eastern side of the parcel and that extends into adjacent parcels; (2) approximately 75 individuals of Pt. Reyes checkerbloom (*Sidalcea calycantha*) located near Highway One within the access easement; and (3) approximately 1.07 acres of Coastal Act wetlands within the access easement adjacent to Highway One.

As noted above, the eastern side of the subject parcel contains approximately 1.1 acres of Grand Fir Forest ESHA (Refer to **Appendix E** for details). LUP Policy 3.1-7 and CZC Section 20.496 contain specific requirements for the establishment of a buffer area between development and an adjacent ESHA to protect ESHA from disturbances associated with proposed development. The width of the buffer area is required to be a minimum of 100 feet, unless an applicant can demonstrate, after consultation with the California Department of Fish and Game and County Planning staff, that 100 feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area is required to be measured from the outside edge of the ESHA and shall not be less than 50 feet in width. Development permitted within a buffer area is required to be generally the same as those uses permitted in the adjacent environmentally sensitive habitat area and must comply within the standards set forth in CZC Section 20.496.020(A)(4)(a)-(k).

The original project approved by the County maintained a 50-foot buffer between the workshop/guest cottage and the Grand Fir forest ESHA. As discussed further in the "Visual Resources" findings below, the project as revised for the Commission's *de novo* review includes relocation of the workshop/guest cottage such that a 100-foot buffer is now maintained between most of the development and Grand Fir ESHA. However, the development of the southeast corner of the garage/workshop/guest cottage building and a portion of the septic system leachfield will encroach within 100 feet (but not closer than 50 feet) of the Grand Fir ESHA. The

[1] Environmental Laboratory. 1987. *Corps of Engineers wetlands delineation manual*. Technical Report Y-87-1, U.S. Army Engineer Waterways Experiment Stations, Vicksburg, Mississippi.

septic leachfield system will be located 50 feet from the Grand Fir ESHA, and the northeast portion of the garage/workshop/guest cottage building will be located approximately 86 feet from the Grand Fir ESHA.

LUP Policy 3.1-7 and CZC Section 20.496.020 allow for a buffer width to be reduced from 100 feet to a minimum of 50 feet when a 100-foot buffer is not necessary to protect the resources of the habitat area from possible significant disruption caused by the proposed development based on certain standards. These standards, which are contained within CZC Section 20.496.020(A)(1)(a) through (g) are evaluated below to substantiate the adequacy of the reduced buffer width as proposed in limited areas:

(a) **Biological significance of adjacent lands:** Lands adjacent to a habitat area vary in the degree to which they are functionally related to the habitat area. The February 2009 revised Biological Assessment states that "Because the ESHA buffer is not considered a continuance of habitat for grand fir forest on the Project Site, the proposed septic system and shop will not degrade the resource by being located outside the 50' buffer from the grand fir forest." The Grand Fir forest occurs in a swale that extends along the eastern side of the parcel and continues downslope and along adjoining parcels. The adjacent lands upslope and to the west are relatively-flat and primarily dominated by non-native grassland. The grand fir forest habitat is not functionally dependent on the surrounding grassland areas and habitats for its continuance and the proposed buffer with its narrower 50-86 width in certain discrete areas is adequate from the standpoint of maintaining the functional relationship between the Grand Fir Forest ESHA and the surrounding grasslands.

(b) **Sensitivity of the species/habitat to disturbance:** The principal factors that could disturb the habitat include fill placement, grading, mowing over saplings, compaction of soils, and invasion by exotic plants. Effective measures for protecting the Grand Fir habitat from these disturbances include the use of exclusionary fencing during construction, preserving the habitat from future development, restricting landscaping on the property, and removing nonnative invasive species that encroach onto the property. These mitigation measures which are required to be implemented by special conditions of the permit as discussed below, can be accommodated within the proposed buffer area. Thus, the buffer width will be adequate to protect the Grand Fir ESHA from disturbance.

(c) **Susceptibility of the parcel to erosion:** Section 20.496.020(A)(c) states that the width of the buffer zone shall be based in part on the degree the development will change the potential for erosion and that a sufficient buffer to allow for the interception of any additional material eroded as a result of the proposed development should be provided. As described above, adjacent lands upslope and to the west of the Grand Fir forest are relatively-flat and vegetated with grasses that can filter and intercept sediment in runoff passing through the area. If best management erosion control practices are used to protect the Grand Fir forest during construction, then the proposed development is not expected to significantly change the potential for erosion in the vicinity of the Grand Fir ESHA. Thus, as conditioned as described below to provide erosion control measures, the proposed project and its proposed 100-foot buffer in most areas and an 86-foot and 50-foot reduced buffer in the two discrete areas described above will be adequate to protect the Grand Fir ESHA from erosion and sedimentation impacts.

(d-e) **Use of natural toporgraphic or existing cultural features to locate the buffer area:** Hills, roads, dikes, and other natural and cultural features can be used where available to buffer ESHA from the impacts of development. The Grand Fir forest is located downslope and along the eastern parcel boundary. The development site has been proposed based on both the location of natural features and site constraints (location of vegetative backdrop, site topography, and prescribed geologic setback areas) on the property. As an undeveloped terrace parcel adjacent to actively-grazed agricultural lands to the north and east, the site offers no hills, roads, dikes or other natural or cultural features that could effectively be utilized to buffer the ESHA from the impacts of the development and affect the consideration of an appropriate buffer width.

(f) **Lot configuration and the location of existing development:** The February 2009 Biological Survey and ESHA Assessment states: "The development is proposed in an area that is largely undeveloped – some of the surrounding lots are rural residential, range land, and forest production. Some nearby parcels are between 2 and 20 acres." The proposed project as sited will provide the widest buffer zone feasible while ensuring consistency of the development with the visual resource protection, geologic hazard, and property setback policies of the certified Mendocino County LCP. The proposed development will be sited on the relatively-flat portion of the parcel and designed primarily to minimize the visual impacts of the new development on public views in this designated highly scenic area. Thus, development is proposed to be sited as far away from Highway One and the southwest bluff edge as possible (so as to minimize the views of development on this coastal terrace), where the evergreen Grand Fir trees extending onto the northern parcel form a vegetative backdrop to the development. Additionally, the proposed structures will be clustered and sited as close to the northern parcel boundary as possible consistent with the setback policies of the LCP. In this respect, the ability to establish a wider buffer around the Grand Fir forest is constrained by site topography as well as the location of the vegetative backdrop, which occurs along only a portion of the northern parcel boundary.

(g) **Type and scale of development proposed:** The proposed new single-family residence and garage/workshop/guest cottage building are both principally permitted in the Range Lands zoning district (as discussed in Finding E above). As discussed further in Finding G below, the scale of the project has been minimized for the purposes of the Commission's *de novo* review. The revised project design reduces the house size by 768 square feet and reduces the height of the house by 2.5 feet. Similarly, the applicants reduced the footprint of the workshop/garage/guest cottage structure by 98 square feet, and reduced the building height by 4.7 feet from natural grade. The resulting design not only reduces the overall height, profile, and footprint of the development, but clusters the buildings more closely together (see **Exhibit** Nos. **3** and **6**).

> The reduced ESHA buffer analysis contained in the February 2009 Biological Survey and ESHA Assessment (page 11 of **Exhibit 11**) states in part the following:*The shop and septic system are between 50 and 100' form [sic] the grand fir forest ESHA. However, the scale of the development is small enough that it would not adversely affect the ecological functionality of the forest. The septic system is situated above the grand fir forest in an open grassy field where the slope levels out. As such, the septic system would not significantly introduce unnatural conditions to the forest edge or to the forest itself. The shop building is*

> *situated far enough from the edge of the grand fir forest such that it would not block light or create a situation where trees would need to be removed for the threat of dead or diseased trees falling on the structure.*
>
> Thus, the proposed 100-foot buffer reduced in certain discrete areas to 50-86 feet will be adequate to protect the grand fir forest ESHA from disturbance from the residential development as sited and designed.

Of the several factors discussed above, the Commission finds that those most significant to the determination of buffer width adequacy are (a) the low biological significance of the lands adjacent to the ESHA, (b) the ability to avoid habitat disturbance with a reduced buffer in discrete locations provided mitigation measures are implemented, and (c) the low susceptibility of the area around the Grand Fir ESHA to erosion. The fact that the development site around the Grand Fir ESHA is more or less flat indicates that erosion and sedimentation from construction and from the completed development are less likely to affect the ESHA than erosion and sedimentation would if the adjacent development had a steeper slope with greater potential for erosion.

Thus, the discrete areas where the buffer will be reduced to 50 feet and 86 feet to accommodate the septic system and a portion of the garage/workshop/guest cottage building, respectively, will remain effective for protecting the Grand Fir habitat from disturbance similar to a wider spatial buffer with implementation of additional on-site protective measures. These additional on-site mitigation measures include the following: (a) implementation of erosion and sedimentation control measures and Best Management Practices (described further in Finding J below) required by **Special Condition Nos**. **9A(ii)** and **13**; (b) the use of protective temporary fencing during construction as required by **Special Condition No**. **12**; and (c) adherence to the landscaping restrictions required by **Special Condition Nos**. 9A(iii).

Special Condition No. **9A(ii)** requires in part that runoff from impervious surfaces including but not limited to rooftops shall be collected and conveyed to a drainage sump, rain garden, rain storage barrel, rock gabion, or other facility designed for collection and infiltration in a non-erosive manner. **Special Condition No**. **13** requires in part that a physical barrier consisting of silt fencing and/or bales of straw placed end-to-end shall be installed downslope of any construction areas. Special Condition No. 12 requires in part that a qualified biologist shall place a construction barrier along the entire length of the protective buffer established around the Grand Fir and other environmentally sensitive habitat areas as depicted on **Exhibit No. 9.**

To mitigate for the reduced ESHA buffer, the 2009 Biological Survey and ESHA Assessment recommends that planting of invasive landscaping plants should not occur on the project site. **Special Condition No**. **9(A)(iii)(a)(4)** accordingly prohibits the use of any plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California on the property.

In addition to the on-site protective measures described above, the Commission attaches **Special Condition No. 3** that designates the Grand Fir ESHA buffer as an open space area and prohibits all development in the open space area except for: a) removal of non-native vegetation; b) the planting of native vegetation or vegetation clearance if required by CalFire, and if approved by further amendment of the permit; and c) the development of the southeast corner of the

garage/workshop/guest cottage building and a portion of the septic system leachfield in areas no closer than 50 feet from the Grand Fir Forest ESHA in the configuration and locations approved by the Commission as part of this permit. **Special Condition No. 2** requires the applicants to record a deed restriction for the amended development imposing all the special conditions imposed by the subject amendment as conditions, covenants, and restrictions against the property. Inclusion of this recommended special condition ensures that both the applicants and future purchases of the property would continue to be informed of all of the coastal development permit requirements that pertain to the property and of the prohibitions on development within the open space area established by **Special Condition No. 3**.

Thus, reducing the ESHA buffer to 50 feet only in limited areas to accommodate the septic system and to 86 feet to accommodate a portion of the garage/workshop/guest suite ensures a small scale of development that will not adversely affect the ecological functionality of the forest. With the mitigation measures discussed above, which are designed to further minimize any potential impacts to the adjacent Grand Fir environmentally sensitive habitat area, the amended development as conditioned is consistent with the reduced buffer width criteria of CZC Section 20.496.020(A)(4)(a)-(k) and will not significantly degrade adjacent ESHA and will be compatible with the continuance of the habitat area.

Proposed Development Located Within Wetland ESHA

The wetlands are located along the northeast side of Highway One at the base of the roadway fill prism and consist of a seasonally wet meadow. The proposed house and accessory structure are located well to the south and east of this wetland. However, the proposed project includes construction of a driveway that runs roughly parallel to Highway One for approximately 600 feet (**See Exhibit 3**). Portions of the proposed driveway would be constructed immediately adjacent to the wetland (varying from 0 to a maximum of approximately 15 feet) and the proposed connection from the driveway to Highway One would be constructed partially within the seasonally wet meadow (**See page 2 of Exhibit 3**). The proposed driveway construction to serve the residential development will result in the direct filling of 500 square feet of Coastal Act wetlands (refer to **Appendix F** for additional information).

In response to the Commission's request for additional information needed regarding wetland impacts and mitigation for the Commission's *de novo* review, the applicant submitted a Wetland Mitigation Plan (**Exhibit 13**) prepared by biological consultant Playalina Nelson dated August 2010. The plan indicates that approximately 167 square feet of wetland will be displaced by the asphalt apron, and 333 square feet will be displaced by a permeable gravel surface driveway. The August 2010 mitigation plan additionally notes that approximately 4800 square feet (400 feet long by 12 feet wide) of the driveway will occur within 50 feet of the wetland.

In a biological addendum submitted to Mendocino County on June 1, 2009, consulting biologist Playalina Nelson states:

> *"any feasible approach to the parcel will have to cross a Coastal Act wetland...Any other approach along Highway 1 that is designed to avoid the wetland would result in a large amount of excavation of the eastern bank along Highway 1, thus altering what little natural topography remains along the cut bank. Additionally, this approach would not meet the requirements of line-of-sight establish [sic] by CalTrans and would render the project unfeasible."*

Thus, alternative access routes to the development site are extremely limited and no feasible approach to the parcel would avoid Coastal Act wetlands. As described previously, no access is feasible from the south side of the subject property because that side of the property and the adjoining land drops too steeply to the Salmon Creek drainage to be able to support an access driveway. The east side of the subject parcel is covered by Grand Fir ESHA and thus extending an access driveway from the east side of the parcel would require encroachment into and destruction of ESHA just as the proposed driveway does. In addition, the applicant would need to secure another easement from the adjoining property owner.

For the purposes of the Commission's *de novo* review, Commission staff requested the applicant evaluate whether alternate access could be obtained to the subject parcel by way of an easement through the adjoining property north of the subject parcel. The applicant's agent submitted a memo to Commission staff dated June 28, 2011, indicating that such a driveway construction would result in "considerable length that would transverse his lands and interfere with his grazing operations." Therefore, the adjacent parcel owner, Mr. Danhakl, was not supportive of granting such an easement.

Therefore, although such an alternative access route through the adjoining parcel would avoid the need to place fill in wetlands for driveway construction, this alternative is not a feasible less environmentally damaging alternative because the applicant does not have the legal right to cross the adjacent property under separate ownership in an alternate location than the existing easement, and if allowed, the access would not be compatible with the current agricultural uses of the adjacent property.

Mendocino County Local Coastal Plan (LCP) policies including LUP Section 3.1-4 and CZC Section 20.496.025 limit the types of development allowable within wetland areas and do not include driveways for residential use. Furthermore, CZC Section 20.496.015 states that a project has the potential to impact an ESHA if development is proposed to be located within the ESHA. CZC Section 20.496.015(D) further restricts development in an ESHA to only those instances where: (1) agreement as to the extent of the ESHA has been reached among the members of the site inspection party; and (2) findings are made by the approving authority that the resource will not be significantly degraded by the development as set forth in Section 20.532.100(A)(1). That section further indicates that no development shall be allowed in an ESHA unless: (a) the resource will not be significantly degraded by proposed development, (b) no feasible, environmentally less damaging alternative exists; and (c) all feasible mitigation measures capable of reducing or eliminating project-related impacts have been adopted. In addition, CZC Section 20.496.015(E) states that if findings cannot be made pursuant to Section 20.532.100(A)(1), the development shall be denied.

Thus, because (a) a driveway for residential use is not an allowable form of development in wetlands, and (b) the proposed project would significantly degrade the ESHA, the Commission finds that the proposed development is inconsistent with the provisions of LUP Policy 3.1-4 and CZC Section 20.496.025. As findings for approval cannot be made consistent with these LCP policies, CZC Section 20.532.100(A)(1) and CZC Section 20.496.015(E) mandate that the project be denied. However, as discussed below, the Commission has determined that it must allow a reasonable residential development on the subject property in order to comply with Section 30010 of the Coastal Act.

Proposed Development Located Within ESHA Buffer

Mendocino County LUP Policy 3.1-7 and CZC Section 20.496.020 contain specific requirements for the establishment of a buffer area between development and an adjacent ESHA to protect ESHA from disturbances associated with proposed development. The width of the buffer area is required to be a minimum of 100 feet, unless an applicant can demonstrate, after consultation with the California Department of Fish and Game and County Planning staff, that 100 feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area is required to be measured from the outside edge of the ESHA and shall not be less than 50 feet in width. Development permitted within a buffer area is required to be generally the same as those uses permitted in the adjacent environmentally sensitive habitat area and must comply within the standards set forth in CZC Section 20.496.020(A)(4)(a)-(k).

LUP Policy 3.1-7 and CZC Section 20.496.020 (A)(1) allow for development to be permitted within a buffer area if the development is for a use that is the same as those uses permitted in the adjacent environmentally sensitive habitat area, is compatible with the continuance of the habitat, and if the development complies with specified standards as described in subsections (1)-(3) of LUP Policy 3.1-7 and 4(a)-(k) of Section 20.496.020. CZC Section 20.532.100(A)(1)(a) requires that ESHA resources affected by development will not be significantly degraded by the proposed development.

In addition, CZC 20.532.100(A)(1) states that no development shall be allowed within an ESHA unless (a) the resource will not be significantly degraded by the proposed development, (b) there is no feasible less environmentally damaging alternative, and (c) all feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted. Therefore, because LUP Policy 3.1-7 and CZC Section 20.496.020 require development permitted within a buffer area to be generally the same as those uses permitted in the adjacent ESHA, the only types of development allowed within wetland ESHA buffer include those that meet these three criteria.

Due to the fact that the only feasible access to the subject parcel and proposed residential development is through the 40-foot-wide access easement, and 1.07 acres of wetlands span throughout most of the easement and onto adjoining property to the east, it is not possible to develop the driveway to serve the subject parcel without locating a large portion of the driveway within ESHA and ESHA buffer (i.e., less than 50 feet from ESHA). This driveway development will require site grading (estimated by the applicant at 273 cubic yards total, of which 11.1 cubic yards is anticipated within the wetland area).

Therefore, because (1) the driveway that will serve the proposed residential use is not a use that would be allowed in the wetland ESHA, (2) the proposed driveway would be located less than 50 feet from ESHA inconsistent with LUP Policy 3.1-7 and CZC Section 20.496.020(A), and (3) the proposed driveway would significantly degrade wetlands, the Commission finds that findings for approval cannot be made consistent with LUP Policy 3.1-7 and CZC Sections 20.496.015 and 20.532.100(A)(1) regarding development within ESHA buffer, and these policies mandate that the project be denied. However, as discussed below, the Commission has determined that it must allow a reasonable residential development on the subject property in order to comply with Section 30010 of the Coastal Act.

Need to Allow a Reasonable Residential Development to Avoid an Unconstitutional Taking of Property

As discussed above, the proposed development is inconsistent with LUP Policies 3.1-4 and 3.1-7, and CZC Sections 20.496.020, 20.496.025, and 20.532.100(A)(1) regarding development in wetlands and wetland ESHA buffer. Therefore, CZC Section 20.496.015(E) requires that the project be denied. However, when the Commission denies a project, a question may arise whether the denial results in an unconstitutional "taking" of the applicant's property without payment of just compensation. Coastal Act Section 30010 addresses takings and states as follows:

> *The Legislature hereby finds and declares that this division is not intended, and shall not be construed as authorizing the commission, port governing body, or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefore. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.*

Consequently, although the Commission is not a court and may not ultimately adjudicate whether its action constitutes a taking, the Coastal Act imposes on the Commission the duty to assess whether its action might constitute a taking so that the Commission may take steps to avoid it. If the Commission concludes that its action does not constitute a taking, then it may deny the project with the assurance that its actions are consistent with Section 30010. If the Commission determines that its action would constitute a taking, then application of Section 30010 would overcome the presumption of denial. In this latter situation, the Commission will propose modifications to the development to minimize its Coastal Act inconsistencies while still allowing some reasonable amount of development.[2]

In the remainder of this section, the Commission considers whether, for purposes of compliance with Section 30010, its denial of the project would constitute a taking. As discussed further below, the Commission finds that to avoid a takings in compliance with Section 30010, the Commission determines it will allow the development of an access driveway that encroaches into wetland ESHA and ESHA buffer inconsistent with LCP policies.

General Takings Principles

The Fifth Amendment of the United States Constitution provides that private property shall not "*be taken for public use, without just compensation.*"[3] Article 1, section 19 of the California Constitution provides that "*[p]rivate property may be taken or damaged for public use only when just compensation…has first been paid to, or into court for, the owner.*"

The idea that the Fifth Amendment proscribes more than the direct appropriation of property is usually traced to *Pennsylvania Coal Co. v. Mahon* [(1922) 260 U.S. 393]. Since *Pennsylvania Coal*, most of the takings cases in land use law have fallen into two categories [see *Yee v. City of*

[2] For example, in CDP A-1-MEN-03-029 (Claiborne and Schmitt), the Commission in 2004 approved residential development on a site that was entirely ESHA, even though it was not resource-dependent development and thus was inconsistent with the LCP (which was the standard of review in that case).

[3] The Fifth Amendment was made applicable to the States by the Fourteenth Amendment (see *Chicago, B. & Q. R. Co. v. Chicago* (1897) 166 U.S. 226).

Escondido (1992) 503 U.S. 519, 522-523]. First, there are the cases in which government authorizes a physical occupation of property [see, *e.g.*, *Loretto v. Teleprompter Manhattan CATV Corp.* (1982) 458 U.S. 419]. Second, there are the cases whereby government merely regulates the use of property (*Yee, supra*, 503 U.S. at pp. 522-523). A taking is less likely to be found when the interference with property is an application of a regulatory program rather than a physical appropriation [*e.g.*, *Keystone Bituminous Coal Ass'n. v. DeBenedictis* (1987) 480 U.S. 470, 488-489, fn. 18]. The Commission's actions here would be evaluated under the standards for a regulatory taking.

In its recent takings cases, the Supreme Court has identified two circumstances in which a regulatory taking might occur. The first is the "categorical" formulation identified in *Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003, 1014. In *Lucas*, the Court found that regulation that denied all economically viable use of property was a taking without a "case specific" inquiry into the public interest involved (*Id*. at p. 1014). The *Lucas* court emphasized, however, that this category is extremely narrow, applicable only "in the extraordinary circumstance when *no* productive or economically beneficial use of land is permitted" or the "relatively rare situations where the government has deprived a landowner of all economically beneficial uses" or rendered it "valueless" [*Id.* at pp. 1016-1017 (emphasis in original)] (see *Riverside Bayview Homes, supra*, 474 U.S. at p. 126 (regulatory takings occur only under "extreme circumstances")].[4]

The second circumstance in which a regulatory taking might occur is under the three-part, *ad hoc* test identified in *Penn Central Transportation Co.* (*Penn Central*) v. *New York* (1978) 438 U.S. 104, 124. This test generally requires an examination into the character of the government action, its economic impact, and its interference with reasonable, investment-backed expectations [*Id*. at p. 134; *Ruckelshaus v. Monsanto Co.* (1984) 467 U.S. 986, 1005]. In *Palazzolo v. Rhode Island* (2001) 533 U.S. 606, the Court again acknowledged that the *Lucas* categorical test and the three-part *Penn Central* test were the two basic situations in which a regulatory taking might be found to occur [see *id.* (rejecting *Lucas* categorical test where property retained value following regulation but remanding for further consideration under *Penn Central*)].

Before a Landowner May Establish a Taking, Government Must Have Made a Final Determination Concerning the Use to Which the Property May Be Put

Before a landowner may seek to establish a taking under either the *Lucas* or *Penn Central* formulations, however, it must demonstrate that the taking claim is "ripe" for review. This means that the takings claimant must show that government has made a "final and authoritative" decision about the use of the property [*e.g.*, *Williamson County Regional Planning Com. v. Hamilton Bank* (1985) 473 U.S. 172; *MacDonald, Sommer & Frates v. County of Yolo* (1986) 477 U.S. 340, 348]. Premature adjudication of a takings claim is highly disfavored, and the Supreme Court's cases "uniformly reflect an insistence on knowing the nature and extent of permitted development before adjudicating the constitutionality of the regulations that purport to limit it" (*Id.* at p. 351). Except in the rare instance where reapplication would be futile, the courts generally require that an applicant resubmit at least one application for a modified project before it will find that the taking claim is ripe for review (e.g., *McDonald, supra*).

[4] Even where the challenged regulatory act falls into this category, government may avoid a taking if the restriction inheres in the title of the property itself; that is, background principles of state property and nuisance law would have allowed government to achieve the results sought by the regulation (*Lucas, supra,* 505 U.S. at pp. 1028-1036).

In this case, and as discussed further below, although the LCP instructs the Commission to deny the proposed driveway in wetlands that would provide access to the proposed residential building site, the Commission's denial would preclude the applicant an economic use on the site. The subject property, APN 123-350-06, is planned and zoned for range land uses that include agricultural and residential uses as principal permitted uses. Due to the fact that the only feasible access to the subject parcel and proposed residential development is through the 40-foot-wide access easement, and 1.07 acres of wetlands span throughout most of the easement and onto adjoining property to the east, it is not possible to develop the driveway to serve the subject parcel without locating a large portion of the driveway within ESHA and ESHA buffer (i.e., less than 50 feet from ESHA). This driveway development will require site grading (estimated by the applicant at 273 cubic yards total, of which 11.1 cubic yards is anticipated within the wetland area). As discussed further below, to deny the applicant an access driveway, and hence agricultural or residential use of the parcel would leave no economic use of the property. In these circumstances, the applicant could successfully argue that the Commission has made a final and authoritative decision about the use of the subject property. Therefore, the applicant could successfully argue that the Commission's denial is a taking because a taking claim is "ripe."

Determination of Unit of Property Against Which Takings Claim Will be Measured

As a threshold matter, before a taking claim can be analyzed, it is necessary to define the parcel of property against which the taking claim will be measured. In most cases, this is not an issue because there is a single, readily identifiable parcel of property on which development is proposed. The issue is complicated in cases where the landowner owns or controls adjacent or contiguous parcels that are related to the proposed development. In these circumstances, courts will analyze whether the lots are sufficiently related so that they can be aggregated as a single parcel for takings purposes. In determining whether lots should be aggregated, courts have looked to a number of factors such as unity of ownership, the degree of contiguity, the dates of acquisition, and the extent to which the parcel has been treated as a single unit [*e.g., District Intown Properties, Ltd. v. District of Columbia* (D.C.Cir.1999) 198 F.3d 874, 879-880 (nine individual lots treated as single parcel for takings purposes); *Ciampitti v. United States* (Cl.Ct. 1991) 22 Cl.Ct. 310, 318].

In this case, the applicant owns the subject vacant parcel proposed to be developed with a single-family residence (APN 123-350-06), but does not own any adjacent parcels. Therefore, the evidence establishes that the Commission should treat APN 123-350-06 as a single parcel for the purpose of determining whether a taking occurred.

The Commission Will Allow Reasonable Development in Order to Comply with Section 30010 of the Coastal Act

Categorical Taking

Section 30010 of the Coastal Act provides that the Coastal Act shall not be construed as authorizing the Commission to exercise its power to grant or deny a permit in a manner which will take private property for public use. Application of Section 30010 may overcome the presumption of denial in some instances. The subject of what government action results in a "taking" was addressed by the U.S. Supreme Court in *Lucas* v. *South Carolina Coastal Council* (1992).

In *Lucas*, the Court held that where a permit applicant has demonstrated that he or she has a sufficient real property interest in the property to allow the proposed project, and that project

denial would deprive his or her property of *all* economically viable use, then denial of the project by a regulatory agency might result in a taking of the property for public use, unless the proposed project would constitute a nuisance under State law.

The Commission interprets Section 30010, together with the *Lucas* decision, to mean that if Commission denial of the project would deprive his or her property of all economic use, the Commission may be required to allow some development even where a Coastal Act or LCP provision would otherwise prohibit it, unless the proposed project would constitute a nuisance under state law. In other words, unless the proposed project would constitute a public nuisance under state law, the applicable provisions of the certified LCP cannot be read to deny all economically beneficial or productive use of land because these sections of the certified LCP cannot be interpreted to require the Commission to act in an unconstitutional manner. In complying with this requirement, however, a regulatory agency may deny a specific development proposal, while indicating that a more modest alternative proposal could be approved, and thus assure the property owner of some economically viable use.

Section 20.368.010 of the CZC sets forth the principal permitted use types in the RL district, which include (1) single-family residential, (2) vacation home rental, (3) general agriculture; (4) light agriculture, (5) row and field crops, (6) tree crops, (7) passive recreation, and (8) fish and wildlife habitat management. Additionally, CZC Section 20.368.015 sets forth the conditional permitted use types in the RL district, which include residential (dwelling groups, cluster development, farm employee housing, and farm labor housing); civic use types (on-site and off-site alternative energy facilities, community recreation, major impact utilities, and minor impact utilities); commercial (animal auctioning sales and services, horse stables, kennels, large animal veterinary, outdoor sports and recreation, and cottage industries); agricultural use types (animal waste processing; limited forest production and processing, commercial woodlots forest production and processing, horticulture, general packing and processing, and fisheries byproducts packaging and processing); open space use types (active recreation); extractive use types (mining and processing, and onshore oil and gas development facilities); and natural resource use types (watershed management).

The Commission finds that in this particular case, none of the other allowable principally permitted or conditionally permitted uses at the subject property would avoid development within and adjacent to environmentally sensitive wetlands, be feasible, and at the same time provide the property with an economic use. As discussed further below, the applicants submitted an agricultural analysis report prepared by a consultant whose background includes experience in agricultural economics, rural appraisals, and farm management, and renewed agricultural use of the subject property was determined to be economically infeasible. Making use of the subject property for any of the principally permitted or conditional uses except perhaps for passive recreation, wildlife habitat management, or watershed management would still require building an access driveway. Since there is only one feasible location for the driveway, these other developments would similarly result in driveway impacts to wetland ESHA and ESHA buffer inconsistent with LUP Policies 3.1-2, 3.1-4, and 3.1-7, and CZC Sections 20.496.015, 20.496.020, 20.496.025, and 20.532.100(A)(1).

Regarding wildlife habitat management or watershed management, while these use types wouldn't necessarily require building a driveway within and adjacent to wetland ESHA in a manner inconsistent with the LCP, neither of these uses afford the property owners an economically viable use.

Regarding "passive recreation" which is a principally permitted use type that also wouldn't necessarily require building a driveway within and adjacent to wetland ESHA in a manner inconsistent with the LCP, the passive recreation use type is defined in CZC Section 20.340.015 as follows:

> *Leisure activities that do not require permits pursuant to this Division nor constitute "development" as defined in Section 20.308.035(D), and that involve only minor supplementary equipment. Examples include sight seeing, hiking, scuba diving, swimming, sunbathing, jogging, surfing, fishing, bird watching, picnicking, bicycling, horseback riding, boating, photography, nature study, and painting.*

However, none of these kinds of leisure activities afford the property owners an economically viable use. Commercial recreational uses that incorporate the leisure activities included in the definition of passive recreation activities such as renting bicycles from the property, leading nature study tours on the property for a fee, or conducting photography lessons for a fee at the site come under the separate use type of "Active Recreation" as defined in CZC Section 20.340.020. Although "Active Recreation" is a conditionally permitted use, such a use would likely still necessitate a driveway to transport clientele the approximately 350 feet to the parcel boundary, plus another 300 feet to a building site on the parcel that could support an active recreation use. Therefore, commercial development of a business in a manner that avoids impacts to wetland or wetland buffers is not feasible.

The passive recreation use also does not include setting aside lands for parks or open space preserves. These kinds of uses come under the separate use type of "Open Space" as defined in CZC Section 20.340.010. Even if the open space use type were allowed on the property, which it is not, the property is likely too small to be of value as a habitat preserve. Additionally, the property is located east of Highway One and is not adjacent to any Open Space-designated lands, thus there is little impetus for public agencies to purchase the lot.

Therefore, the Commission finds that it is reasonable to conclude that denial of the proposed residential use would deprive the applicant of all economic use. Therefore, whether or not denial of the permit would constitute a taking under the *ad hoc* inquiry required by *Penn Central* and discussed below, the Commission finds it necessary to approve some residential use of the property to avoid a categorical *Lucas*-type taking.

Taking Under *Penn Central*

Although the Commission has already determined it is necessary to approve some residential use to avoid a categorical taking under *Lucas*, a court may also consider whether the permit decision would constitute a taking under the *ad hoc* inquiry stated in *Penn Central Transp. Co. v. New York City* (1978) 438 U.S. 104, 123-125. This *ad hoc* inquiry generally requires an examination into factors such as the sufficiency of the applicant's property interest, the regulation's economic impact, and the regulation's interference with reasonable, investment-backed expectations.

Sufficiency of Interest. In the subject case, the applicant purchased APN 123-350-06 for $500,000 with a closing date of May 4, 2005. On May 5, 2005, a Grant Deed was recorded in Volume 2005, page 09629 of the Official Records, Mendocino County Recorders Office, effectively transferring and vesting fee-simple ownership of APN 123-350-04 to applicant Michael Marr.

Based upon an examination of copies of these documents and related entries within the current property tax rolls of the County of Mendocino's Assessor's Office, a subsequent deed was recorded on September 20, 2007 that transferred the property to coastal development permit co-applicants Judith Malin and Mike Marr as joint tenants of the real property described as APN 123-350-06. Upon review of these documents, the Commission concludes that the applicant has demonstrated that they have sufficient real property interest in the subject parcel to allow pursuit of the proposed project.

Reasonable Investment-Backed Expectations. In this case, the applicant's proposal to construct a residence on APN 123-350-06 was both a reasonable expectation and an investment-backed expectation.

To determine whether the applicant had an investment-backed expectation to construct a house on APN 123-350-06, it is necessary to assess what the applicant invested when he purchased that lot. Since the Commission's Substantial Issue determination in August 2009 that Appeal No. A-1-MEN-09-034 raised a substantial issue of conformance with the certified LCP, the applicant submitted additional information requested by Commission staff concerning the applicants' reasonable investment-backed expectations, which was received in the Commission's North Coast District office on December 22, 2009. The applicant purchased APN 123-350-06, a 4.17-acre parcel, for a single purchase price of $500,000. The applicant did not provide a review of comparable properties in the Albion area that were sold around the same time, but instead stated the following: "Market value was determined by the Seller and his agent. After spending several years looking for property in the Mendo/Sonoma area it was our view that we paid a fair price for this property. In 2009 the Mendocino County assessor accessed [sic] the property at $530,605."

No records are available for comparison of recent sales of undeveloped surrounding agricultural lands, and available information is limited regarding other surrounding land sales in residentially zoned and designated lands. For example, west of Highway One, a 5.54-acre residentially-zoned parcel sold in 2005 for $600,00, and is currently for sale for $650,000; however, according to data accessed from Zillow Real Estate Network[5], the property advertised alleges to have an approved coastal development permit for a lodging facility, which could not be confirmed at the time of staff report preparation.

The applicant's submittal additionally describes their investment-backed expectations as follows:

> *Although we have no intention of selling the property, it should be noted that this is an investment property. Acting as the General Contractor and Builder, we will save 60% of actual out-of-pocket building costs. Costs which will become profit when/if we sell the property...*

Consequently, the applicant did have an *investment-backed* expectation that he had purchased one developable lot (APN 123-350-06), and his investment reflected that the future development of a residential use could be accommodated on the subject parcel.

In addition, the expectation that APN 123-350-06 could be developed with a single-family residence would be reasonable. To determine whether an expectation is reasonable, one must assess, from an objective viewpoint, whether a reasonable person would have believed that the

[5] Accessed July 2012 at http://www.zillow.com/homes/for_sale/Albion-CA/#/homes/for_sale/Albion-CA/8334_rid/39.217043,-123.747575,39.199419,-123.788002_rect/14_zm/1_rs/

property could have been developed for the applicant's proposed use, taking into account all the legal, regulatory, economic, physical and other restraints that existed when the property was acquired. As part of the submittal provided by the applicant to address their reasonable investment-backed expectations (**Exhibit 14**), the applicant stated the following: "We reviewed the Local Coastal Plan and met with the County Planning Department to review the rules and codes prior to purchase of the property. We hired many local design professionals familiar with the coastal plan, the rural architecture and the county process."

While the expressed intent of the Range Lands district is to "support continued agricultural use" as described in Chapter 2 and Section 3.2-1 of the Mendocino County LUP, the Range Lands district includes development of a single family residence as a principal permitted use. In addition, as discussed above, any economic use of the subject property would necessitate a driveway along the easement (and consequently, through the wetland) to serve the subject property. Therefore, a reasonable person could have had a reasonable expectation that APN 123-350-06 could be developed to include a single family residence.

When the applicant purchased the property in May 2005 with a 40-foot-wide, non-exclusive easement for access and utility purposes extending from the east side of Highway One along a length of several hundred feet to the subject property boundary, there was no indication that development of a single-family residence on the parcel would not be possible due to wetland constraints. Although the applicant hired a consulting botanist to conduct field surveys at the site, botanical surveys were conducted on April 17, May 3, and June 20, 2005 whereas wetland delineation work did not occur until June 18, 2005, after the applicant had assumed ownership of the property. Furthermore, at the entrance to Highway One where the proposed impacts to wetlands will occur, there exists a ranch gate and unpaved road serving the adjacent property to the north. Viewed objectively, a reasonable person would thus have had a reasonable expectation that APN 123-350-06 could be developed with a residential parcel served by a driveway along the access easement.

Therefore, the applicant had both a reasonable, and an investment-backed expectation that he could develop APN 123-350-06 with a residence as he is currently proposing.

Economic Impact. In this case, the evidence demonstrates that the Commission's action would have substantial impact on the value of the subject property.

As noted previously, the subject property is planned and zoned for Range Lands (RL) uses. According to the LCP, the expressed intent of the Range Lands district is to "support continued agricultural use" as described in Chapter 2 and Section 3.2-1 of the Mendocino County LUP. Section 20.368 of the Coastal Zoning Code (CZC) sets forth the principal permitted use types in the RL district, which include (1) single-family residential, (2) vacation home rental, (3) general agriculture; (4) light agriculture, (5) row and field crops, (6) tree crops, (7) passive recreation, and (8) fish and wildlife habitat management. Additionally, CZC Section 20.368.015 sets forth the conditional permitted use types in the RL district, which include residential (dwelling groups, cluster development, farm employee housing, and farm labor housing); civic use types (on-site and off-site alternative energy facilities, community recreation, major impact utilities, and minor impact utilities); commercial (animal auctioning sales and services, horse stables, kennels, large animal veterinary, outdoor sports and recreation, and cottage industries); agricultural use types (animal waste processing; limited forest production and processing, commercial woodlots forest production and processing, horticulture, general packing and processing, and fisheries

byproducts packaging and processing); open space use types (active recreation); extractive use types (mining and processing, and onshore oil and gas development facilities); and natural resource use types (watershed management).

The Commission finds that in this particular case, none of the other allowable principally permitted or conditionally permitted uses at the subject property would avoid development within and adjacent to environmentally sensitive wetlands, be feasible, and at the same time provide the owners with an economic return on their investment. As discussed further below, the applicants submitted an agricultural analysis report prepared by a consultant whose background includes experience in agricultural economics, rural appraisals, and farm management, and renewed agricultural use of the subject property was determined to be economically infeasible. Making use of the subject property for any of the principally permitted or conditional uses except perhaps for passive recreation, wildlife habitat management, or watershed management would still require building a driveway. Since there is only one feasible location for the driveway, these other developments would similarly result in driveway impacts to wetland ESHA and ESHA buffer inconsistent with LUP Policies 3.1-2, 3.1-4, and 3.1-7, and CZC Sections 20.496.015, 20.496.020, 20.496.025, and 20.532.100(A)(1). Regarding wildlife habitat management or watershed management, these use types wouldn't necessarily require building a driveway within and adjacent to wetland ESHA in a manner inconsistent with the LCP, neither of these uses afford the property owners an inherent economically viable use. As discussed above, none of the kinds of leisure activities (pursuant to CZC Section 20.340.015) afford the property owners an economic use. Commercial recreational uses that incorporate the leisure activities included in the definition of passive recreation activities such as renting bicycles from the property, leading nature study tours on the property for a fee, or conducting photography lessons for a fee at the site come under the separate use type of "Active Recreation" as defined in CZC Section 20.340.020. Although "active recreation" is a conditionally permitted use, such a use would likely still necessitate a driveway to transport clientele the approximately 350 feet to the parcel boundary, plus another 300 feet to a building site on the parcel that could support an active recreation use. Therefore, commercial development of a business in a manner that avoids impacts to wetland or wetland buffers is not feasible.

The passive recreation use also does not include setting aside lands for parks or open space preserves. These kinds of uses come under the separate use type of "Open Space" as defined in CZC Section 20.340.010. Even if the open space use type were allowed on the property, which it is not, the property is likely too small to be of value as a habitat preserve. Additionally, the property is located east of Highway One and is not adjacent to any Open Space-designated lands, thus there is little impetus for public agencies to purchase the lot.

In these circumstances, it is reasonable to conclude that the denial of the proposed residential use would have a substantial economic impact on the value of the subject property. For all of these reasons, the Commission determines it will allow a reasonable residential development on APN 123-350-06 to avoid an unconstitutional takings in compliance with Section 30010 of the Coastal Act. This determination is based on the Commission's finding in this staff report that residential development is commensurate with the investment-backed expectations for the property, and that none of the uses otherwise allowable under the certified LCP would provide an economic use.

A Taking Cannot Be Avoided Because the Project Could Not Be Prohibited Under Background Principles of State Property Law

Finally, *Lucas* provides that a regulatory action does not constitute a taking if the restrictions inhere in the title of the affected property; that is, "background principles" of state real property law would have permitted government to achieve the results sought by the regulation (*Lucas, supra*, 505 U.S. at pp. 1028-1036). These background principles include a State's traditional public nuisance doctrine or real property interests that preclude the proposed use, such as restrictive easements. Here, the proposed project would not constitute a public nuisance, so as to preclude a finding that the Commission's denial of the project would constitute a taking.

California Civil Code Section 3479 defines a nuisance as follows:

> *Anything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a nuisance.*

California Civil Code Section 3480 defines a public nuisance as follows:

> *A public nuisance is one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.*

There is no evidence that construction of a residence with a driveway on the subject property would create a nuisance under California law. Several residential developments currently surround the agricultural lands on lands zoned for residential uses. As discussed further below, the project as conditioned limits additional residential development, is compatible with the long-term protection of the RL resource lands, and ensures that the development does not diminish the ability to keep surrounding agricultural land in production. Additionally, water service will be provided to the single family residential development by an on-site well, and sewer service will be provided by an on-site septic system that has been reviewed and approved by the County Division of Environmental Health. This ensures that the proposed new residence would not create public health problems in the area. Furthermore, the proposed use is residential, rather than, for example, industrial, which might create noise or odors or otherwise create a public nuisance.

Therefore, the Commission finds the proposed project would not constitute a public nuisance that would preclude a finding that the regulatory action constitutes the taking of private property without just compensation.

Conclusion

To preclude a claim of takings and to assure conformance with California and United States Constitutional requirements, as provided by Coastal Act Section 30010, this permit approval allows for the construction of a residential development to provide a reasonable economic use of the subject property. In view of the evidence that: (1) permanently restricting use of the property to resource dependent uses could potentially eliminate the economic value of the property; (2) residential use of a small portion of the property would provide an economic use; and (3) an applicant would have had a reasonable investment-backed expectation that a fully mitigated

residential use would be allowed on the property, there is a reasonable possibility that a court might determine that the final denial of a residential use, based on the inconsistency of this use with LCP Policies and LCP Zoning would constitute a taking. Therefore, the Commission determines that the County LCP in this case does not preclude developing the proposed driveway within the wetland ESHA.

Having reached this conclusion, however, the Commission also finds that the LCP only instructs the Commission to construe the resource protection policies of the Mendocino County LCP in a manner that will avoid a taking of property. It does not authorize the Commission to otherwise suspend the operation of or ignore these policies in acting on this appeal. Thus, the Commission must still comply with the requirements of the LCP by avoiding, to the maximum extent feasible, the significant disruption of habitat values at the site. To achieve consistency with the LCP's ESHA policies in light of constitutional takings issues, the project must be mitigated to the maximum extent feasible to best avoid the significant disruption to sensitive habitat that would accompany any development of this property.

Maximizing LCP Conformity while Avoiding Takings

Though applicants are entitled under Coastal Act Section 30010 to an assurance that the Commission will not act in such a way as to take their property, this section does not authorize the Commission to completely avoid application of the policies and standards of the certified LCP, including LUP Policy 3.1-4 and CZC Section 20.496.0020(A)(4)(C). Instead, the Commission is only directed to avoid construing these applicable policies in a way that would take private property for public use. Aside from this instruction, the Commission is still otherwise directed to enforce the requirements of the LCP. Therefore, in this situation, the Commission must still comply with LUP Policies 3.1-4 and CZC Section 20.496.0020(A)(4)(C) by requiring measures to mitigate for adverse environmental effects on the filling of wetlands and to ensure that development adjacent to environmentally sensitive wetlands are sited and designed to prevent impacts which would degrade the adjacent environmentally sensitive wetland areas.

Alternatives Analysis

Commission staff considered several alternatives to the proposed project including alternate access routes, and no project. As discussed above, the Commission finds that there is no feasible less environmentally damaging alternative to the project as conditioned.

As discussed previously, no other connection to Highway One through the west side of the subject property or its access easement would be feasible and/or avoid wetlands. Steep slopes and the presence of Grand Fir Forest ESHA preclude developing an accessway from the south and east sides of the subject parcel. Finally, developing an accessway from the north side of the property is not feasible as this alternative would require securing an easement from the adjoining property owner in an alternate location than the existing easement; however the adjoining property owner does not support granting such an easement.

As discussed above, the no project alternative would deny the applicant an economically viable use of his property, thereby resulting in an unconstitutional "taking" of the applicant's property without payment of just compensation inconsistent with Coastal Act Section 30010. Therefore, the Commission finds that this alternative is not a feasible less environmentally damaging alternative to the proposed project.

Therefore, for all of the above reasons, the Commission finds that as conditioned, the proposed project is the least environmentally damaging feasible alternative consistent with LUP Section 3.1-4 and CZC Sections 20.496.025, 20.496.015, and 20.532.100(A)(1).

Mitigation Measures to Minimize Adverse Environmental Effects on ESHA

The proposed driveway has been sited and designed to minimize impacts to wetland habitat to the maximum extent feasible. The driveway is proposed to be constructed along the easternmost extent of the access easement and connect to Highway One at a narrower part of the wetland where an existing ranch gate and unpaved road provide access from Highway One to the adjacent property to the north of the subject parcel. The driveway that serves the proposed development will be the minimum width to meet CalFire and County standards.

As noted previously, the construction of the driveway would result in approximately 500 square feet of wetland fill. In addition, according to the August 2010 wetland mitigation report described below, approximately 4,800 square feet (400 feet long by 12 feet wide) of the driveway will occur within 50 feet of the wetland.

The June 2009 biological addendum prepared by Ms. Nelson identified the following measures to mitigate for the placement of fill in wetlands and the encroachment into wetland ESHA buffer: (1) enhance the quality of the wetland by removing exotic plant species; (2) use permeable road surfaces with exception to the required asphalt surface of the apron approach; (3) install temporary fencing to limit equipment and sediment encroachment into the wetland; and (4) design the entrance road to be sited on the easternmost portion of the road easement to avoid additional wetland impacts and provide the greatest buffer to the wetland.

For the purposes of the Commission's *de novo* review, Commission staff requested the applicants submit a wetland mitigation plan that should include the following components: (1) compensation for direct loss of wetlands and wetland values and functions associated with filling wetlands for the driveway and its connection to Highway One; (2) the creation of new or expanded wetlands at a ratio large enough to compensate for temporal loss of wetland values and functions; (3) detailed descriptions and diagrams of the wetland mitigation site and proposal; (4) success criteria; and (5) monitoring proposals.

In response to the Commission's request for additional information needed regarding wetland impacts and mitigation for *de novo* review, the applicant submitted a Wetland Mitigation Plan (**Exhibit 13)** prepared by Ms. Nelson and dated August 2010. To avoid a no-net-loss of wetlands, the August 2010 wetland mitigation plan includes a proposal that the consultant indicates would expand the existing wetland area at a ratio of 2.6:1 by planting native wetland plants in areas currently dominated by non-natives.

The 2010 mitigation plan states:

> *The difference between the proposed wetland expansion site and the impacted wetland site is subtle; both are dominated by nonnative grasses that are not good indicators of wetlands. The mitigation site has several species of wetland plant, but they are not present with enough cover to characterize the site as a wetland.*

The proposed mitigation including the creation of wetlands includes the following components: (1) plant 50 one-gallon Pacific rush (*Juncus effusus)* and 150 one-gallon slough sedge (*Carex obnupta*) approximately 30 inches on center to cover 1,300 square feet, with the consultation of a qualified biologist to determine the correctness of species and planting locations; (2) monitor

plantings for five years; and (3) submit brief progress reports prepared by a qualified biologist to the Coastal Commission at the end of the second and fourth spring after project implementation. The mitigation plan includes a performance standard of 75% wetland vegetation cover within the mitigation area, as measured by visual estimation, within two years, with monitoring to occur for five years.

Commission staff consulted with Staff Ecologist John Dixon, P.h.D. to discuss the mitigation measures proposed for the subject site. Dr. Dixon indicated that in past permit actions in the Northern California coastal zone, the Commission has encouraged wetland mitigation proposals that provide (1) in-kind habitat replacement, (2) mitigation on-site whenever possible, (3) mitigation at ratios of habitat creation to habitat loss of generally 4:1, in recognition that wetland restoration projects are difficult to implement successfully and that there is often a significant time lag between the time when the wetlands are filled and the time when wetland vegetation at the mitigation site has grown to the point where it can provide comparable habitat values, and (4) that the mitigation proposal be adequately supported with appropriate success standards, a suitable monitoring program, and proposed remedial action. Wetland mitigation measures that fully conform to these goals are more likely to provide adequate mitigation as required by LUP 3.1-4 and CZC Sections 20.496.025, and 20.532.100.

The applicant's proposed wetland mitigation site conforms with two of the objectives above in that the proposed mitigation is on-site and in-kind. The proposed mitigation would ostensibly create approximately 1,300 square feet of freshwater wetlands to mitigate for the 500 square feet of fill in freshwater wetland for the proposed driveway construction and would be created on the same property where the impact would occur and directly adjacent to an area where wetlands currently exist. However, the mitigation plan is inadequate for the following reasons: (1) the plan does not propose a sufficient amount of new wetland creation; (2) the plan does not sufficiently analyze site hydrology for both the wetland area and proposed wetland creation in adjacent upland sites; (3) the plan lacks details on the methodology for wetland creation; and (4) the plan lacks sufficient success standards and monitoring criteria.

Specifically, it is unclear how the mitigation plan that proposes to plant wetland plants in adjacent upland areas will succeed. In February 2011, Commission staff asked the applicants for additional information to demonstrate how the wetland mitigation area, which is topographically higher than the adjacent wetland area, would support the planting of hydrophytic plants without facilitating site hydrology by lowering the elevation. On March 3, 2011, the applicant's agent responded to the inquiry in a transmittal memo as follows:

> *Upon discussion with our consulting Botanist, Playalina Nelson, we believe this issue has been address* [sic] *thoroughly in our 2010 Wetland Mitigation Plan, with a focus towards increasing the wetland function in the wetland and the buffer. See section 3.1 in the report.*
>
> *In brief, Ms Nelson states (section 3.2b) that the objective of the wetland enhancement for this project is to remove invasive nonnative plants. And like the impacted wetland, there is no standing water in this area…and that hydrology is not a factor in measuring the success of enhancement.*

The response provided by the applicant's agent and consulting botanist refers to the enhancement component of the mitigation plan rather than the compensatory wetland creation component that Commission staff referred to in their inquiry. The fact that the adjacent upland habitat does not

currently support a prevalence of hydrophytic vegetation, as described by Ms. Nelson above, suggests that the water table in this upland area- unlike the adjacent delineated wetland area- is not at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes. The consulting biologist did not provide any hydrologic data for the existing wetland and wetland mitigation area. Thus, the mitigation plan lacks sufficient evidence to demonstrate how planting hydrophytic plants in an upland that is topographically higher than the adjacent wetland area will result in the creation of new wetland habitat. Therefore, the Commission imposes **Special Condition No.10** which requires the applicant to submit, prior to permit issuance, a revised wetland mitigation plan prepared by a qualified biologist with experience conducting wetland delineations and installing wetland mitigation projects.

The revised mitigation plan shall at minimum: (1) identify additional existing upland areas adjacent to existing wetland areas where new wetlands can be created to achieve a total mitigation ratio of 4:1; (2) provide a topographic plan that depicts site topography of existing wetland and adjacent upland areas; (3) depict proposed final topographic elevations of proposed constructed wetland areas; (4) evaluate the existing soil conditions and specify any soil preparation necessary to create soil conditions that will support the creation of wetlands; and (5) specify how the mitigation design will successfully create wetland features in upland areas. In addition, because the rare plant Pt. Reyes checkerbloom has been identified within the northern portion of the easement area (more than 100 feet from proposed development), floristically appropriate surveys should be conducted to ensure that any wetland mitigation efforts to not impact rare plant ESHA.

Special Condition No. 10(A)(vii) also requires the revised wetland mitigation plan to include a schedule for the creation of the wetland area such that the driveway shall be completed prior to completion of the wetland excavation and grading. This condition will ensure that the grading, excavation, and fill placement work needed to be performed for the driveway construction will be completed and thus will not adversely affect the creation and maintenance of the nearby new wetlands to be created under the revised wetland mitigation plan. The condition further requires that (a) excavation and grading at the wetland creation site be performed during the non-rainy season between May 1 and October 15 and completed within three months of commencement of construction of the access driveway, (b) the wetland vegetation planting be completed during the first rainy season following completion of the mitigation site excavation and grading work, and (c) removal of invasive exotic plants from the wetland enhancement area be completed within one year of the commencement of construction. These requirements will limit the amount of wetland habitat value lost due to time lag between when the impact occurs and when the mitigation wetland is in place. In addition, these requirements will minimize potential adverse wetland impacts that could otherwise occur from sedimentation and compaction if the proposed project was constructed during the rainy season when the wetlands are most sensitive to disturbance. **Special Condition No. 10(A)(vii)(a)** further requires that the wetland vegetation planting occur in the rainy season between November 1 and April 15 to ensure a better chance of survival and establishment of the plants.

Furthermore, to ensure that the proposed planting of natives and wetland plants is conducted under the revised mitigation plan as approved, **Special Condition No. 10(C)** requires submittal within 30 days of completion of the wetland mitigation work of a description of the number, types, location, and condition of vegetation planted at the mitigation site. The Commission

further finds that to ensure that the wetland creation site is successful and that the new habitat area becomes fully established, functioning wetland habitat, the area must achieve 100% vegetative cover, with at least 60% of the vegetative composition consisting of native hydrophytic species. Therefore, **Special Condition No. 10(B)(2)** also requires that the revised mitigation plan includes provisions for monitoring the site for at least five years. **Special Condition No. 10 (B)(2)** further requires that final monitoring for success shall not take place until after at least three consecutive years with no remediation or maintenance activities other than weeding have occurred. In addition, although the mitigation plan as submitted calls for monitoring, the plan does not include specific remedial measures for ensuring success should the monitoring determine that the success criteria are not being met. Instead, the 2010 mitigation plan only states that monitoring efforts "will trigger contingency planting if the set performance standards are not met," rather than specifying what "contingency planting" entails or evaluating whether alternate approaches are necessary. Therefore, **Special Condition No. 10 (D)** also requires that if the final monitoring report indicates that the mitigation project has been unsuccessful, in part, or in whole, based on the approved performance standards, the applicant is required to submit a revised or supplemental mitigation program to compensate for those portions of the original program which did not meet the approved performance standard. The revised mitigation program shall be processed as an amendment to this coastal development permit. **Special Condition No. 10 (E)** further requires that no changes shall be made to the mitigation plan without a coastal development permit amendment.

As conditioned, the creation of at least 2,000 square feet of wetlands from an upland area adjacent to existing wetlands affords an opportunity to ensure that no net loss of wetlands will occur due to the direct impacts of 500 square feet of wetlands. However, the development of 4,800 square feet (400 feet long by 12 feet wide) of the driveway within 50 feet of the wetland (and in some cases, as close as 2 feet to the wetland) will likely compromise the quality of adjacent wetlands. For example, grading of the driveway surface could result in the deposition of sidecast material within adjacent wetland areas; heavy equipment navigation such as turning could encroach into and damage surrounding soils and vegetation; and staging of materials near wetland areas could result in accidental encroachment into sensitive wetland areas. Therefore, the Commission finds that because of the net loss of wetland habitat values resulting from the project as proposed, the wetland expansion proposal does not alone provide adequate wetland mitigation and must be supplemented by providing greater mitigation that includes enhancing the value of the existing wetland.

To address this issue, the applicant's biologist included as part of the mitigation plan a proposal to enhance 5,200 square feet within wetland ESHA and ESHA buffer by removing invasive non-native plant species. The proposal includes removal of periwinkle (*Vinca major*) and bearded iris (*Watsonia bulbifera*) from 2,700 square feet of existing wetland and wetland buffer habitat. In addition, the proposal includes removal of Himalaya berry (*Rubus armeniacus*) from 2,500 square feet of wetland and wetland buffer areas. The plan further proposes to mitigate for development that encroaches within the wetland ESHA buffer by enhancing current wetland function by planting native plants in the wetland areas currently dominated by non-natives.

Because the mitigation areas occur within an easement adjacent to Highway One, the applicants consulted with CalTrans and have obtained permission in advance for the removal of invasive species from the portion of the easement that is within the State right-of-way. However, the authorization does not specify that CalTrans has authorized the creation of new wetlands within

the easement. In addition, it appears that portions of the wetland mitigation will likely occur within the easement area provided by the adjoining property owner (Danhakl) to the north (APN 123-350-09). Therefore, the Commission attaches as **Special Condition No. 4** a requirement that prior to permit issuance, the applicants submit written evidence that all property owners whose land will be affected by implementation of the revised wetland mitigation plan (including the California Department of Transportation (Department) and/or the current owner of APN 123-350-09), have granted all necessary rights to the applicant to implement the revised wetland mitigation plan within the easement area that the applicant has obtained from the property owners for construction of the driveway that will serve the approved residential development.

In addition, **Special Condition No. 2** requires that the applicant record and execute a deed restriction approved by the Executive Director against the property that imposes the special conditions of this permit as covenants, conditions, and restrictions on the use and enjoyment of the property and that will help assure that future owners are aware of these CDP requirements applicable to all future development.

In conclusion, although the proposed development is not an allowable use within the wetland ESHA or within the area immediately adjoining the ESHA, the Commission finds that as discussed in detail above, the project will include measures to mitigate all significant adverse environmental effects on the filling of wetland areas and developing adjacent to other environmentally sensitive wetland habitat to the greatest extent feasible consistent with the requirements of LUP Policy 3.1-4 and CZC Section 20.496.0020(A)(4)(C), while providing for a reasonable use of the property that will avoid an unconstitutional taking of private property for public use.

G. Protection of Range Land Resources

Agricultural Issues Overview

The Mendocino County Land Use Plan (LUP) Section 3.2 includes a narrative that highlights the agricultural issues of the area. According to this narrative, approximately 3,500 acres of land in the coastal zone are tilled, irrigated or cropped, mostly for forage, including 40 livestock operators in the coastal zone that raise 1,200 head of beef and 4,300 sheep. Full-time operations are concentrated between Elk and Point Arena, where the largest areas of prime soils are found. Coastal agriculture also includes several nurseries principally raising fuchsias, azaleas, and rhododendrons. Forty acres near Caspar support daffodils, suggesting a potential for a bulb industry similar to that in Del Norte County. Mendocino County LUP Section 3.2 states that "The land use policies of the Coastal Element, with its emphasis on the preservation and enhancement of agriculture, should encourage these landowners to maintain their farms in production." To that end, Mendocino County Coastal Zoning Code (CZC) Section 20.532.100(A)(2) requires that proposed development in the Range Lands (RL) zoning district be compatible with the long-term protection of the resource lands.

The Coastal Act Policy Framework

The Coastal Act protects coastal agriculture first and foremost by requiring that "new development be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it . . ." (Section 30250(a)). This requirement to concentrate urban development in existing urban areas establishes the fundamental framework for assuring that new urban development, including urban services, are not located in rural coastal areas where the

protection of agricultural, scenic, biological, and other coastal resources is paramount. Coupled with this framework for limiting urban development to existing developed areas, the Coastal Act requires the establishment of stable urban-rural boundaries to assure that urban sprawl from existing urban areas does not overtake rural agricultural areas. The Coastal Act also requires that the maximum amount of prime agricultural land be maintained in agricultural production, and that the conversion of agricultural land be limited to instances where agriculture is no longer feasible or where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where conversion of agricultural lands would complete a logical neighborhood and contribute to the establishment of a stable limit to urban development or would concentrate development in urban areas. Specifically, Coastal Act Section 30241 states:

> *The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the area's agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:*
>
> *(a) By establishing stable boundaries separating urban and rural areas, including, where necessary clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.*
>
> *(b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.*
>
> *(c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.*
>
> *(d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.*
>
> *(e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.*
>
> *(f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.*

The clear intent of Section 30241 is to maintain prime agricultural land in agricultural production and assure that agricultural land is not converted to non-agricultural land uses except in limited circumstances on the periphery of designated urban areas. Thus, the presumption inherent in Coastal Act Section 30241 is that conversion of agricultural lands is prohibited unless there is some basic incompatibility or conflict with immediately adjacent urban land uses that makes agricultural use no longer viable, or unless conversion would complete a logical urban area and/or help to establish a stable urban-rural boundary that better protects agricultural land.[6]

[6] Coastal Act section 30113 defines prime agricultural land as those lands defined as prime in sections (1), (2), (3), and (4) of Williamson Act section 51201(c). This includes: (1) All land that qualifies for rating as class I or class II in the Natural Resource Conservation Service land use capability classifications. 2) Land which qualifies for rating

The Coastal Act also contemplates that both the identification and protection of agricultural land, and its possible conversion to non-agricultural land uses, will be specifically addressed through LCP planning. In particular, the Coastal Act contemplates that in conjunction with the identification of urban-rural boundaries, agricultural lands will be designated and restricted to agricultural land uses, unless a future LCP amendment is approved that allows the conversion of the land to non-agricultural uses. Coastal Act Section 30241.5 identifies a viability test for conversion of agricultural lands around the urban periphery when conversion is an issue in any LCP or LCP amendment.

In comparison to Section 30241 and its focus on conversions of agricultural lands around the urban fringe and creating a stable urban-rural boundary, Section 30242 addresses conversions of land suitable for agriculture that are not addressed by the conversion standards of Section 30241. Coastal Act Section 30242 states:

> *All other lands suitable for agricultural use shall not be converted to non-agricultural uses unless (l) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.*

Section 30242 states it is to be applied for conversion of "all other lands suitable for agricultural use, " i.e., all conversions not addressed by the general Section 30241 policy against prime land conversions ("the maximum amount of prime agricultural land shall be maintained in agricultural production…") or the specific conversion standards of Section 30241 and 30241.5. Section 30242 includes no direct requirement for considering the resulting stability of the urban limit and in general provides a different standard of review than does 30241(b). Notably, Section 30242 does not deal with "agricultural land," but rather with "all other lands suitable for agriculture." One of the tests for conversion of such land is that agricultural use cannot feasibly be continued or renewed. This wording indicates that the policy was intended to be broadly applied, even to land, which is not currently in agricultural use.

In summary, the Coastal Act provisions on conversion of agricultural lands are as follows: Prime agricultural lands are to be maintained in production. Prime and non-prime agricultural lands either on the urban periphery or surrounded by urban uses may be converted if they satisfy standards stated in subsections (b) and (c) of Section 30241, as well as other applicable provisions of the Coastal Act. All other lands suitable for agricultural use may be converted only if conversion is consistent with section 30242 and other applicable provisions of the Act. When an LCP or LCP amendment proposes conversion of any agricultural land on the urban periphery under the viability provision of Section 30241(b), the viability tests of Section 30241.5 also must be satisfied.

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80 through 100 in the Storie Index Rating. (3) Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture. (4) Land planted with fruit- or nut-bearing trees, vines, bushes or crops which have a nonbearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars ($200) per acre.

The Agriculture Policies of the Mendocino County LCP

The Mendocino County LCP carries out the requirements of Coastal Act Sections 30241, 30242, and 30250, through land use and zoning policies designed to maintain the maximum amount of agricultural lands in agricultural production and to concentrate development within or in close proximity to existing areas that are able to accommodate it (See **Appendix G**). LUP Policy 3.9-1 implements Coastal Act Section 30250 by requiring that new development be allowed *only* if it is demonstrated that it will not have significant impacts on coastal resources.

In addition to the general urban-rural planning framework of the LCP, the Agriculture component of the certified LCP contains provisions to carry forward key provisions of the Coastal Act. First, LUP Section 3.2 and CZC Section 20.308.095(J) define prime agricultural land and other land suitable for agriculture. The LCP definition of prime land is based on the Williamson Act, consistent with Coastal Act Section 30113. Second, LUP Policies 3.2-1 through 3.2-16 strictly limit the circumstances under which agricultural land can be divided or converted to non-agricultural land uses. LUP Policies 3.2-5 and 3.2-16 implement Coastal Act Sections 30241 and 30242 by requiring that development on lands suitable for agricultural use (or, in LUP Policy 3.2-16, designated AG or RL) be allowed only if it is demonstrated that the development does not convert agricultural lands to a non-agricultural use, unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Coastal Act Section 30250. LUP Policy 3.2-5 further requires that any such permitted conversion shall be compatible with continued agricultural use on surrounding lands. LUP Section 3.2 describes agricultural land as including prime agricultural land, land in existing agricultural use, land with agricultural potential, or lands under Williamson Act contracts. CZC Section 20.336.005 describes agricultural use types as including the on-site production of plant and animal products by agricultural methods, and further includes certain uses that are accessory to said agricultural uses, as specified in CZC Chapter 20.456.

The Mendocino County Coastal Zoning Code (CZC) implements these land use policies through requirements such as CZC Section 20.532.100(A)(2)(a) that prohibits the granting of a coastal development permit unless it can be found that any proposed use in resource lands designated AG, RL, and FL is compatible with the long-term protection of resource lands.

LUP Policy 3.2-1 requires that all agricultural land use shall be designated AG 60 or RL 160 for the purpose of determining density, and to support continued agriculture use. The subject property is zoned RL-160 (rangelands, 160-acre minimum). The 4.17-acre size of the subject property is recognized by the County of Mendocino as a legal non-conforming parcel size (in existence prior to County land use designations and Coastal Commission certification of the County's LCP) that cannot be subdivided. Chapter 2 of the Mendocino County LUP describes the intent of the Range Lands classification as follows:

> *The Range Lands classification is intended to be applied to lands which are suited for and are appropriately retained for the grazing of livestock and which may also contain some timber producing areas. The classification includes land eligible for incorporation into Type II Agricultural Preserves, other lands generally in range use, intermixed smaller parcels and other contiguous lands, the inclusion of which is necessary for the protection and efficient management of range lands.* (Emphasis added)

The principal permitted use for Range Lands includes grazing and forage for livestock, including raising of crops and wildlife habitat improvement; and one single family dwelling per legally created parcel. In addition to the allowance of one single-family residence on Range Lands, Mendocino County CZC identifies general agriculture (e.g., raising of livestock, animal husbandry, grazing); light agriculture (e.g., grazing, bee keeping, sale of agricultural products grown on the premises, raising/butchering/marketing of small farm animals); row and field crops, and tree crops as principal permitted use types, among others.

CZC Section 20.368.015 specifies the conditionally permitted uses allowable on agricultural lands in the Range Lands District. Most of these conditionally permitted uses are uses that are ancillary to or supportive of agricultural production and are therefore clearly consistent with the above-cited LCP and Coastal Act policies that require the maximum amount of agricultural lands to remain in agricultural production. However, some of the conditionally permitted uses specified in the LUP and zoning code are not ancillary to or supportive of agricultural production, including oil and gas development facilities, alternative energy facilities, and "family residential cluster development."

Consistent with Coastal Act Sections 30222, 30241 and 30242, the LCP gives priority to agricultural land protection over these other uses on agricultural lands by specifying that these conditionally permitted uses may only be authorized on agricultural lands provided they meet the LCP requirements for preservation of prime agricultural soils; prohibiting conversion of agricultural land to non-agricultural land uses; and maintaining productivity of on-site and adjacent agricultural lands, as set forth in CZC Section 20.532.100(B).

Site Conditions and Project Overview

On September 29, 2011, the applicants submitted a 3-page Agricultural Feasibility Analysis in response to additional information requested by Commission staff for the purposes of *de novo* review. On May 29, 2012, the applicant submitted a more comprehensive agricultural analysis and economic feasibility evaluation (**Exhibit 15**) submitted in response to Commission staff identification of, and request for, outstanding information necessary for the Commission's evaluation of the subject development project. This supplemental "agricultural analysis report" includes information about the soils, water resources, economics, and historic uses of the subject property and surrounding area relative to the current and proposed uses from an agricultural perspective. The report was prepared by House Agricultural Consultants, whose background includes experience in agricultural economics, rural appraisals, and farm management.

Surrounding and Historic Land Uses

The subject site is located approximately 0.25 mile south of the small town of Albion (population of the town "proper" was 168 according to 2010 census data[7]), and approximately 1.75 miles north of the Navarro River. Surrounding lands to the north, south and east of Highway One share the same 160-acre minimum Range Lands District zoning and land use designation as the subject parcel. Spring Grove Road borders the subject property to the south, forming a hairpin route to the mouth of Salmon Creek on the east side of Highway One, and continuing underneath Highway One to serve developments on the west side of the highway. Historically, this area just east of the confluence of Big and Little Salmon Creeks served as the town of Whitesboro, around

[7] Personal communication July 19, 2012 with Dirk Larson, County Appraiser.

1876. As described in the archaeological survey report dated March 26, 2005 by Thad Van Bueren, a railroad established in this area at that time served to bring railroad ties down to the wharf at the mouth of the creek, and later to facilitate the delivery of milled wood in the area. A single family residence is located on the adjacent 6.5-acre Range Lands parcel to the south of the subject parcel between Spring Grove Road and above Salmon Creek.

According to the Mendocino County Tax Assessor's office[8], one parcel with Type II Agricultural Preserve designation occurs in the vicinity (APN 123-360-07), and is located three parcels to the south of the subject parcel. The adjoining property to the north and east of the subject parcel is currently leased to a local farmer as part of a cattle ranch, and is actively used for cattle grazing.

While the subject parcel is located in a relatively remote and rural setting, some residential development does occur in the surrounding area. For example, parcels west of Highway One are zoned for Rural Residential use at densities ranging from 1 acre minimum to 10 acre minimum parcel sizes. These lands include the Pacific Reefs subdivision located southwest of the subject parcel on the west side of Highway One and immediately south of Salmon Creek. The subdivision contains 41 parcels ranging in size from 1 to 3 acres. A handful of larger Rural Residential-zoned parcels occur to the northwest and southwest of the subject parcel.

Mendocino County Land Use Plan Section 3.2 describes current agricultural issues on nearby coastal lands in the narrative section in part as follows (<u>emphasis</u> added):

> *Coastal terraces and bottom land historically were farmed in small units by families dependent on agriculture for their livelihood. Potatoes, truck crops, hogs, poultry, beef cattle and dairies did well and farm products were sold both locally and outside the areas. However, in the past 30 years, government regulations and technological changes in food processing and trucking have encouraged large-scale, centralized agricultural operations, ill-suited to the coast's small areas of prime soils, relatively small land holdings, and family-run enterprises. Since the late 1960's, commercial coastal agriculture has consisted primarily of livestock and dairy farms and flower and plant nurseries...*
>
> *...About 3,500 acres of land in the coastal zone are tilled, irrigated or cropped, mostly for forage. Milk production has been reduced to three dairies, and former dairy operators are raising replacement dairy heifers. There are 40 livestock operators in the coastal zone, raising 1,200 head of beef and 4,300 sheep. However, only one quarter of these farms are operated as the fulltime occupation of their owners. Full-time operations are concentrated between Elk and Point Arena, where the largest areas of prime soils are found. Elsewhere, highly productive soils are found only in small patches, rendering full-time farming uneconomical at this time. <u>North of the Navarro River, agricultural activity has been affected by residential development</u>. This trend is not significant in the Point Arena area, but some farmers, uncertain about the continued viability of agriculture in the coastal zone, may have deferred capital investment. <u>The land use policies of the Coastal Element, with its emphasis on the preservation and enhancement of agriculture, should encourage these landowners to maintain their farms in production</u>...*

[8] Personal communication July 19, 2012 with Dirk Larson, County Appraiser.

> *...There are two main barriers to assembling parcels of a size sufficient for profitable, full-time farming. Land division and conversion to non-agricultural uses has progressed in certain sections of the coast to the point that consolidation to raise livestock is no longer practical. In other areas, property owners, anticipating subdivision of their Williamson Act lands, ask high prices of would-be buyers.*
>
> *However, the outlook for coastal agriculture in Mendocino may not be as bleak as the previous discussion implies. Small-scale or part-time farming could become more practical if current agricultural trends change. Energy costs could increase to the point that local production of food becomes competitive. Indeed, many residents stress that coastal agriculture is not dead but growing in directions other than toward large-scale, one-crop farming.*

As described in the agricultural analysis report submitted by the applicant **(Exhibit 15)**, "the subject property has been used in the past as range land for cattle when this parcel was owned by a family which owned numerous parcels of conjoining lands." The applicant's agent further describes in a July 28, 2011 memo (**Exhibit 10**) that the subject parcel was previously leased by a landowner with adjacent landholdings for cow grazing from the late 1970's to the late 1990's. The memo describes that at the time, the cows grazed approximately two acres of the subject property in addition to grazing the adjoining lands. The applicants purchased the subject property in 2005 and according to the applicant's agent, the adjacent property was sold shortly thereafter. In 2006, the adjacent property owner constructed a fence along the common property lines thereby excluding the subject lands from subsequent grazing.

Water for Agricultural Use

The agricultural analysis report indicates that a 195-foot-deep water well capable of a production rate of four gallons per minute has been installed on the subject property. The agricultural report calculates water usage for the site considering recharge times, the maximum summer-time evapotranspiration rate (0.15 inches per day) of irrigated vegetation, and water consumption rates for various agricultural uses and concludes the well is insufficient to support much more than 400 gallons of domestic water use per household per day plus a small plot (calculated at 0.05 acre, or 2,210 square feet) of irrigated vegetation such as trees, shrubs, and crops (page 29 of **Exhibit 15**). The report further describes the water requirements for various livestock and notes that livestock have lesser water requirements than crops when considering their drinking needs.

Prime vs. Non-prime Soils

As cited above, Coastal Act Sections 30241 and 30242 require the protection of prime agricultural lands and set limits on the conversion of all agricultural lands to non-agricultural uses. Coastal Act Section 30113 defines "*prime agricultural land*" through incorporation-by-reference of paragraphs (1) through (4) of Section 51201(c) of the California Government Code:

> "*Prime agricultural land entails land with any of the follow characteristics: (1) a rating as class I or class II in the Natural Resource Conservation Service land use capability classifications; or (2) a rating 80 through 100 in the Storie Index Rating; or (3) the ability to support livestock used for the production of food and fiber with an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture; or (4) the ability to normally yield in a commercial bearing period on an annual basis not less than two hundred dollars ($200) per acre of*

> *unprocessed agricultural plant production of fruit- or nut-bearing trees, vines, bushes or crops which have a nonbearing period of less than five years.*"

The four different prongs of the definition of "prime agricultural land" relate to the value and utility of the land in terms of range of agricultural uses and productivity. The land use capability classification rates the utility of the land based on various physical factors (e.g., rock type, soil type, slope, erosion potential, etc.). The lower the rating the more utility the land is considered to have for various agricultural uses. The Storie Index Rating is based on soil characteristics that govern the land's potential utilization and productive capacity (e.g., characteristics of the soil profile, surface texture, slope, drainage, nutrient level, acidity, alkalinity, etc.) independent of other physical or economic factors that might determine the desirability of growing certain plants in a given location. The third paragraph of the definition speaks to the number of "animal units" the land can sustain. An "animal unit" (AU) is a standardized measure of animals used for various agricultural purposes. A 1,000-pound beef cow with nursing calf is the standard measure of an animal unit; for smaller animals, 5 sheep or goats comprise one AU, and 70 to 75 laying hens are recognized as one AU. Animal unit equivalents (AUE) are calculated for various other animals. A 700-pound steer is 0.80 animal units. A 1,300-pound horse is 1.20 animal units. A 120-pound sheep is 0.20 animal units. The dry matter forage requirement of one animal unit is 26 pounds per day. The amount of forage used by one animal unit in a month is an "animal unit month" (AUM). Finally, the fourth prong of the definition of prime agricultural land relates to the agricultural value of the land in terms of its capacity to generate a minimum commercial revenue of $200 per acre. Land that meets any one of the four criteria in the definition is considered "prime" under the Coastal Act.

The Mendocino County Land Use Plan Section 3.2 incorporates the definition of "prime agricultural lands" used in Coastal Act Section 30113 and Section 51201 of the California Government Code as:

> *All land which qualifies for rating as Class I or Class II in the Soil Conservation Service land use capability classifications.*
>
> *Land which qualifies for rating 80 through 100 in the Storie Index Rating.*
>
> *Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture.*
>
> *Land planted with fruit or nut-bearing trees, vines, bushes, or crops which have a nonbearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than $200 per acre.*

As described above, approximately 1.1 acres of the subject parcel contain Grand Fir forest, which is ESHA, and as ESHA the Mendocino County LCP only allows those uses that are dependent on ESHA to occur within the ESHA and the 100-foot minimum ESHA buffers. Commission staff has visited the site on several occasions and reviewed aerial imagery, site topography, and on-site conditions of the subject parcel. Based upon review of these features and on calculations using ArcGIS software, approximately 1.28 acres of the subject property occurs on steep (greater than 40%), rocky slopes that would not support agricultural use. The remaining

portion of the 4.17-acre property that is neither ESHA nor steep slopes comprises 1.79 acres. [4.17-acre parcel minus (1.1 acres of ESHA + 1.28 acres of steep slopes) = 1.79 acres.]

The agricultural analysis report submitted by the applicant (**Exhibit 15)** indicates that according to the United States Department of Agriculture Natural Resource Conservation Service (NRCS) Web Soil Survey interactive website[9], the subject 4.17-acre property contains approximately 60 percent (2.5 acres) of soil unit 139, Dystropepts, 30 to 75 percent slopes; and 40 percent (1.67 acres) of soil unit 117, Cabrillo-Heeser complex, 0 to 5 percent slopes (see Figure 3.2 in **Exhibit 15)**. The agricultural analysis report describes the Dystropepts soil types as occurring on side slopes of marine terraces that support shrubs, grasses, and trees such as grand fir or redwood. The report describes the Cabrillo-Heeser soil complex as consisting of sandy loam soils that support perennial grasses and forbs. Table 1 below summarizes soil characteristics relative to the criteria for prime agricultural land designation using data from NRCS:

Table 1. Summary of NRCS Soil Characteristics for the Subject Property.

Map Unit Symbol	Map Unit Name	Land Use Capabilitiy Classification (Nonirrigated)	Land Use Capabilitiy Classification (Irrigated)	Storie Index Rating
117	Cabrillo-Heeser complex, 0 to 5 percent slopes	3	2	58/0*
139	Drystropepts (bluff face and forested areas)	N/A	N/A	Not rated

* Note: Cabrillo soils have a Storie Index of 58 and Heeser soils have a Storie Index of 0; however, these soil units cannot be separated at the scale of the subject property without in-depth analysis.

The authors of the May 2012 agricultural analysis report walked the subject parcel and determined that approximately one-third of an acre of the area mapped as the Dystropepts soil unit appears to be relatively flat and grazed in the past, and similarly approximately one-third of an acre of the area mapped as the generally more agriculturally-productive Cabrillo-Heeser complex soil unit appears to be steep, forested, and *not* grazed (i.e., 1.37 acres are flat and previously grazed). Based upon their observation, the authors concluded that 1.67 acres of the subject parcel could be used for agriculture, and their subsequent agricultural analysis of the parcel uses this size as their baseline for evaluation. As discussed above, this 1.67 acres approximates the 1.79 acre portion of the 4.17 acre property that is neither ESHA nor comprised of steep slopes.

The agricultural analysis report submitted by the applicant (**Exhibit 15**) includes a methodology for calculating the carrying capacity of the subject parcel. The report authors utilized vegetative productivity statistics provided by NRCS *Soil Survey of Mendocino County, Western Part* for the Cabrillo-Heeser complex soil unit, in addition to observations of site conditions to determine that the carrying capacity of the land could support 2,800 pounds of dry matter per acre in a normal rainfall year, and that one AU will consume 20 pounds of dry matter forage per day (See page 28

[9] Accessible at http://websoilsurvey.nrcs.usda.gov

of **Exhibit 15**). The report authors conclude that the subject parcel could support one AU per acre grazing the Cabrillo-Heeser soil unit for a total 140 days. In other words, the agricultural analysis concludes that the 1.67 acres of land determined suitable for grazing could support one AU for 7 months per year.

The "prime agricultural lands" definition requires only one of the items described above to be satisfied to meet this designation. Based upon the above analysis, the subject property does not meet the criteria for prime agricultural land designation for each soil type because: (1) while the Land Use Plan Map 18 depicts a portion of the soils onsite as "prime," the land use capability rating for a portion of the site soils only meets the prime agricultural ranking if irrigated; (2) the soils do not support the minimum necessary Storie Index Rating of 80; (3) none of the land is capable of supporting one animal unit per acre per year; and (4) limitations on water supply and windy site conditions do not support a minimum commercial revenue from crops of $200 per acre.

Economic Analysis of Agricultural Uses

The agricultural analysis submitted by the applicant (**Exhibit 15**) includes an economic analysis of potential agricultural activities for the subject site. While the subject property was historically leased for grazing along with adjacent landholdings by previous land owners, the property has not been grazed since at least 2006, when a new property owner on the adjoining parcel built a fence along the shared property line. With its total annual carrying capacity of one head of cattle for approximately seven months or seven head of cattle for one month, the report concludes that the subject parcel is inadequate to support year-round production of livestock. The applicant has approached the neighboring cattle rancher to inquire about potential interest in running cattle on the land for one month of the year and the rancher (Mike Biaggi) has indicated he is not interested.

The agricultural analysis highlights that favorable soils, a limited water supply, and an engaged community supporting locally-grown foods could support some agricultural use consistent with the Range Land use designation at the subject parcel. However, the analysis also identifies site constraints that, when viewed in their entirety, render the parcel economically infeasible to support a stand-alone agricultural venture. These constraints include but are not limited to: small parcel size; limited water resources; strong off-shore winds; distance from population centers that could support a commercial venture; and the designation of the site as a highly scenic area that would limit construction of greenhouses or other structures that could not be subordinate to the surrounding area, inconsistent with Mendocino County LCP policies such as LUP Policy 3.1-1 or 3.1-3, or CZC Section 20.504.015.

The agricultural analysis indicates that the 1.67 acres of usable agricultural land could support either 1 or 2 goats for an entire year with a $118 net annual income, or a combined organic small-scale venture of: a) pastured chickens for egg production; b) apiary for honey production; and c) cool season crops. In the latter scenario, the agricultural analysis estimates the 1.67 acres of usable agricultural land could support a venture of: a) raising a flock of 30 laying hens producing 300 to 450 dozen eggs annually; b) building 4 to 5 bee hives generating 250 to 300 pounds of honey annually; and c) growing seasonal crops that would consume 7,000 gallons of water per year in 600 square feet of space. The analysis assumes the venture would be certified organic and incorporates both the cost of certification and an anticipated higher income from organically-certified products. Using these figures, the agricultural analysis projects annual gross sales as follows: a) $1,350 for 450 dozen eggs at $3.00 per dozen; b) $1,125 for 250 pounds of

honey; and c) $250 for vegetables not consumed by the family or the poultry. The analysis concludes that based upon operating costs, fixed expenses, and depreciation from capital and start-up costs (see **Exhibit 15**), and assuming the farm uses unpaid family labor living on site, the annual net income for the entire site would be $812, or $486 per acre (assuming 1.67 acres of usable space as described in Section 3.3.4 of the agricultural report).

Proposed Uses

As described previously, the applicant submitted revised plans (**Exhibit Nos. 3, 4, and 5**) for the purposes of *de novo* review by the Commission that make changes to the development originally approved by the County. The proposed project as revised for the Commission's *de novo* review reconfigures the placement and size of structures in a way that addresses visual subordination requirements by reducing building height and bulk, and clustering development more than the originally-approved design.

The project as revised for the Commission's *de novo* review includes construction of: (1) a 1,790-square-foot house with a 576-square-foot attached garage, and 353 square feet of attached covered porches with decks (total building footprint of 2,719 square feet); (2) a detached 2,040-square-foot accessory structure containing a 1,295-square-foot garage/workshop, a 640-square-foot guest cottage, and a 105-square-foot covered porch; and (3) an 870-foot-long driveway (total area of 11,130 sq. ft.). The applicant proposes to use the garage/workshop space to support his woodworking skills.

Agricultural Land Conversion

Mendocino County LUP Policy 3.2-1 and CZC Section 20.368.005 describes the designation of the rangelands districts as intending to encompass lands within the Coastal Zone which are suited for and are appropriately retained for the grazing of livestock. As described above, the purpose of the proposed development is to support a full-time residential use, rather than a continued coastal agriculture use.

While the Mendocino County LCP does explicitly allow a single family residence as a principally-permitted use on agricultural lands as indicated in CZC Section 20.368.010, such use may be permitted only if consistent with all other applicable LCP policies. Each LCP policy must be applied in a manner that maximizes consistency with all other LCP provisions, including CZC Section 20.532.095 which requires that the granting of any coastal development permit must be supported by findings that the development is in conformity with the certified LCP and that the development is consistent with the purpose and intent of the zoning district and preserves the integrity of the zoning district. Neither the single-family residence nor the accessory structure designed to support a guest cottage and woodworking workshop would support agricultural uses and thus would convert agricultural lands to non-agricultural uses. LUP Policies 3.2-4 and 3.2-5 limit conversion of agricultural lands to non-agricultural uses. For the conversion of agricultural lands resulting from the development to be allowed under the Mendocino County agricultural conversion policies, continued or renewed agricultural use of the subject property must not be feasible and the proposed conversion must be compatible with continued agricultural use on surrounding lands. Additionally, CZC Section 20.532.100 further requires that no permit shall be granted on lands designated RL unless the proposed use is compatible with the long-term protection of resource lands.

Feasibility of Continued or Renewed Use of Agricultural Lands

Mendocino County LUP Section 3.2 "Agriculture" states the following in its definition of "Feasible Agricultural Use:"

> *Section 30242 prohibits conversion to nonagricultural uses unless "continued or renewed agricultural use is not feasible" or if it "would preserve prime land or concentrate development." Section 30108 defines feasible as capable of being accomplished in a successful manner within a reasonable period of time taking into account economic, environmental, social, and technological factors.*

Mendocino County LUP Policies 3.2-5 and 3.2-16 require that all agricultural lands designated AG or RL not be divided nor, as in this case, converted to non-agricultural uses unless certain conditions can be demonstrated, including that continued *or* renewed agricultural use is not feasible. Mendocino County CZC Section 20.532.100(B)(3) further requires that an economic feasibility evaluation be prepared pursuant to CZC Section 20.524.015(C)(3) to demonstrate whether continued or renewed agricultural use of the land is infeasible before allowing conversion of agricultural lands. [10] As described above, the applicant submitted a comprehensive agricultural analysis and economic feasibility evaluation (**Exhibit 15**) dated May 15, 2012 and prepared by House Agricultural Consultants, whose background includes experience in agricultural economics, rural appraisals, and farm management. The agricultural analysis includes information about the soils, water resources, economics, and historic uses of the subject property and surrounding area relative to the current and proposed uses from an agricultural perspective, and provides 5-year gross income statistics for selected coastal Mendocino County agricultural enterprises as presented below:

Commodity	Total value	Reporting units	Value per unit
vegetables	$1,030,920	acres	$3,222 /ac
nursery	$3,314,580	acres	$50,994 /ac
live cattle	$6,305,680	cwt	$82.37 /cwt
live goats	–	head	$200 /head
eggs	–	dozen	$1.13 /dozen
honey	–	hive	$84.45 /hive

Table 2.1 Five-year gross income average of selected Mendocino County agricultural commodities. Nursery, vegetables, and cattle values from Mendocino County Agricultural Commissioner's annual crop reports 2006–2010; goats, eggs and honey from other sources — see text, section 2.5.1.

(*From House Agricultural Consultants, May 15, 2012)*

[10] CZC sections 20.532.100(B)(3) and 20.524.015(C)(3) requires an economic feasibility evaluation prepared by a land use economist with expertise in the economics of agriculture which shall contain the following:
(a) An analysis of the gross revenue from the agricultural products grown in the area for the five (5) years immediately preceding the date of the filing of proposed conversion and/or division; and
(b) An analysis of the operational expenses beyond the control of the owner/operator associated with the production of the agricultural products grown in the area for five years immediately preceding the date of the filing of the proposed conversion and/or division.

Enterprise	Full investment amount	Annual depreciation	Per production unit
vegetables	$1,401	$145	acre
nursery	$16,618	$1,612	acre
live cattle	$128	$12.80	cwt
live goats	$372	$37.16	head
eggs	$0.53	$0.05	dozen eggs
honey	$195.57	$1.96	hive

Table 2.2 Estimated investment of selected Mendocino Coast agricultural enterprises. The investment is expressed both as the full, up-front investment and as an annual depreciation charge based on a 10-year straight-line basis.
(*From House Agricultural Consultants, May 15, 2012)*

Enterprise	Operating	Overhead	Total	Production unit
vegetables	$2,295	$185	$3,612	acre
nursery	$14,251	$27,529	$41,780	acre
live cattle	$79.63	$2.54	$82.17	cwt
live goats	$132	$9	$141	whole animal
eggs	$0.89	$0.07	$0.96	dozen eggs
honey	$61.20	$4.50	$65.70	hive

Table 2.3 Estimated production costs of selected Mendocino coast agricultural enterprises. All figures are in dollars per production unit.
(*From House Agricultural Consultants, May 15, 2012)*

Enterprise	Gross income	Production costs	Net income	Per unit
vegetables	$3,222	$2,480	$742	acre
nursery	$50,994	$42,752	$8,242	acre
live cattle	$82.37	$92.34	⟨$9.97⟩	cwt
live goats	$200	$141	$59	head
eggs	$1.13	$0.96	$0.17	dozen
honey	$84.45	$65.70	$18.75	hive

Table 2.4 Estimated net income of selected Mendocino coast agricultural enterprises.
(*From House Agricultural Consultants, May 15, 2012)*

As described above, the agricultural analysis report estimates the 1.67 acres of land suitable for agricultural use on the subject parcel could support a venture of: a) raising a flock of 30 laying hens producing 300 to 450 dozen eggs annually; b) building 4 to 5 bee hives generating 250 to 300 pounds of honey annually; and c) growing seasonal crops that will consume no more than 7,000 gallons of water per year in 600 square feet of space. The agricultural analysis report demonstrates that while some agricultural use of the subject parcel is possible (mostly at a hobbyist or home-garden level), it is not *economically* feasible to renew agricultural use of the site CZC Section 20.532.100(B)(3) and CZC Section 20.524.015(C)(3) because the 1.67 acres of

the site suitable for agricultural use could be expected to provide a gross annual yield of only $812 total- or $486 per acre, even assuming the applicants use unpaid family labor living on site.

Therefore, the analysis demonstrates that renewed agricultural use is not economically feasible CZC Section 20.532.100(B)(3) and CZC Section 20.524.015(C)(3) under a variety of agricultural operations scenarios. Accordingly, the Commission finds that conversion of designated agricultural lands at the subject site may be permitted consistent with LUP Policies 3.2-5 and 3.2-16 and CZC Code Sections 20.532.100(B)(3) and 20.524.015(C)(3) because continued or renewed agricultural use is not feasible.

Non-agricultural Development on Agricultural Lands

A core policy concern of the Coastal Act is the protection of coastal agriculture through the limitation of non-agricultural land uses on agricultural lands. The original Coastal Plan that formed the basis for the Coastal Act identified this concern, including the issue of land speculation and valuation that could effectively undermine the goal of maintaining agricultural lands. Akin to the Williamson Act goal against valuing agricultural land at non-agricultural prices, the Coastal Act agricultural policies emphasize the protection of an area's agricultural economy, and require that increased assessments due to public services or non-agricultural development do not impair agriculture (30241; also 30241.5).

The Mendocino County LCP only permits conversion of agricultural land where the conversion is compatible with continued agricultural use on surrounding lands. The Commission addressed the concern for the trend towards development of large rural residential projects in agricultural areas in the 2001 Periodic Review of the San Luis Obispo County LCP. In particular, the Commission adopted recommendations that the SLO County LCP be amended to establish stronger standards for non-agricultural residential development on agricultural lands, including performance standards for the size of development envelopes and other constraints that would better maintain lands in agricultural production (see Recommendation 5.8 of Commission's Adopted Periodic Review of SLO County LCP).

In addition, several studies have been prepared in other parts of the state, particularly in Marin and San Mateo Counties, that evaluate economic and development pressures affecting agriculture in those areas. For example, the American Farmland Trust (AFT) conducted a study in 2004 of San Mateo County agriculture under contract with the Peninsula Open Space Trust (POST), which reviewed among other things the economic and development pressures affecting agriculture in the County.[11] This study shows that over the past 25 years the county's land in farms decreased 45 percent from 75,110 acres to 41,530 acres. Although the AFT Study does not differentiate between agricultural lands lost inside and outside of the coastal zone, much of the agricultural lands in San Mateo County are in the coastal zone and, according to POST, AFT's findings are representative of the trends for San Mateo coastal agricultural lands.[12] Although the AFT Study cites farmers' concerns regarding ranchette and urban development and contends that new development is likely the chief factor driving high land costs, it does not specifically examine how high value residential development such as the proposed project affect land costs and related viability of agriculture.

[11] San Mateo County Agricultural Industry Profile & Strategic Farmland Maps - Final Report. July 30, 2004. American Farmland Trust.
[12] Pers. Comm Paul Ringgold, POST, May 9, 2005.

The impacts of high value residential development on the viability of agriculture and the ability to keep agricultural lands in production is specifically addressed in a 2003 study prepared for the Marin County Community Development Agency (Strong Associates Study)[13]. This study "analyzes the economic issues facing agriculture in Marin County with the primary focus on the impact of estate development on agricultural lands." The study reviews an earlier study of Marin's agricultural economy from 1973, analyzes current data regarding Marin agricultural production, costs, land values, etc., and evaluates five case studies identified by the Marin Planning Department where new homes are either proposed or have been recently constructed on agricultural parcels to determine to what extent the County's efforts to preserve agricultural lands over the past 30 years have been successful and whether prior strategies for farmland protection remain effective.

In contrast to residential development that is incidental to and/or in support of agricultural production such as farmer and farm labor housing, the development of non-farming uses on agricultural lands can be contrary to the goal of keeping agricultural lands in agricultural production. Given increasingly high housing costs, agricultural use cannot compete with the use of land for residential development even on a large un-subdivided farm parcel or ranch on The recent statewide trend to develop large expensive homes on coastal properties exacerbates this problem by increasing the speculative value of these large parcels in the scenic rural coast side as sites for such homes. The development resulting from these pressures is widely recognized as contributing to the loss of agricultural production on agricultural land in conflict with the LCP requirement to maintain the maximum amount of agricultural land in agricultural production.

The loss of available lands for farming to residential development is now being recognized as a national trend and many states, including California have recently taken actions in attempt to curb this "rural sprawl." The American Farmland Trust views rural residential sprawl as a major threat to farm production stating:

> *The majority of the Central Valley's population lives in urban areas totaling more than 1,236 square miles. Yet that number does not tell the full story. What are not counted are the rural-residential parcels. These residences, also known as "ranchettes," dot the rural landscape and affect everything from routine farming practices... a ranchette removes more farmland from agriculture than any higher density suburban dwelling.*[14]

And:

> *The subdivision of land into ranchettes fuels speculation that drives up the cost of land and eventually makes it unaffordable for commercial agricultural production. The proliferation of rural residences throughout agricultural areas also poses a very real risk, right-to-farm laws notwithstanding, that agricultural insurance premiums will rise and that farming practices may be further regulated to protect public health and safety. Thus, agricultural policy should also address the need to significantly reduce scattered, rural development.*
>
> *Greater certainty about land use expectations is critical to both farmers and developers. Places to farm and places to build should be clearly delineated, mutually exclusive and consistently enforced... [This] will also insulate agricultural production from speculation and other pressures*

[13] Marin County Agricultural Economic Analysis, Final Report, Strong Associates November 2003

[14] Ranchettes: The subtle Sprawl, A study of Rural Residential Development in California's Central Valley, AFT 2000.

> *exerted by urban proximity, and encourage reinvestment in California agriculture to meet the demands of a changing global marketplace.*[15]

California FarmLink states:

> *An owner predominantly depending on agricultural income will presumably not be able to afford a significantly larger than average size house (i.e. 4,000 sq. ft.). If such an estate home were built, a farmer looking to purchase the land in the future would be priced out of the market.*

The New Jersey Farmland Affordability/Availability Working Group observed:

> *The viability of New Jersey's agricultural industry depends on ensuring that farmland is affordable and available to new and established farmers. If farmers don't have access to farmland they can't farm.*
>
> *Under the State Agricultural Retention and Development Act, the investment of Public Funds is intended to preserve land and strengthen the viability of agriculture. Estate situations – where the landowner does not farm the land or only minimally farms it – run counter to that purpose. To maintain public confidence in the Farmland Preservation Program and ensure preserved farmland remains available and affordable to farmers, the issue of housing on preserved farms needs to be addressed.*[16]

Measures identified to address this issue include: (1) prohibiting all non-farm dwellings on agricultural lands where continued or renewed agricultural use is feasible, (2) limiting the size of new homes on agricultural lands, and (3) requiring agricultural conservation restrictions that ensure that land remains *in* agricultural use as opposed to simply remaining *available* for agricultural use. These measures have been adopted or are currently under consideration by many jurisdictions throughout the state and nation. As further discussed below, the Commission finds that the decreased house size proposed by the applicant for purposes of its de novo review adequately ensures that the permitted conversion is compatible with continued agricultural use on surrounding lands and thereby ensures that the proposed development conforms to the agricultural protection requirements of the County's LCP.

Protecting the Productivity or Viability of Adjoining Agricultural Land

The Mendocino County LCP only permits conversion of agricultural land where the conversion is compatible with continued agricultural use on surrounding lands. The Commission's findings for the certification of the LCP support the interpretation of these policies to mean that agricultural uses have clear priority over residential uses where appropriate. The LCP policies including LUP Policy 3.9-1 further support the requirement of Coastal Act Section 30250(a) to concentrate development in order to avoid individual or cumulative impacts to coastal resources, such as agricultural lands and highly scenic areas, by requiring that new development be allowed *only* if it is demonstrated that it will not have significant impacts on coastal resources.

Several studies evaluating the size of single-family residences nationally report that the average size of single-family residences ranges from 2,100 to 2,200 square feet. The available information thus shows the average house size in the surrounding area is 2,354 square feet, with a median house size of 2,315 square feet. (See **Appendix K**.)

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[15] Suggestions for an Agricultural Component of Governor Arnold Schwarzenegger's Smart Growth Initiative, AFT, May 2004.

[16] Recommendations of the New Jersey Farmland Affordability/Availability Working Group, September 23, 2004.

The Commission, like other agencies throughout the state and nation, recognizes that non-agricultural residential development can threaten continued agricultural use of agricultural lands in conflict with the LCP agricultural land use protection policies and zoning. In response to an increase in the conversion of agricultural lands to development sites for large single-family homes and the related loss of agricultural lands, the Williamson Act was amended in 2004 to limit the size of new single-family homes on parcels under Williamson Act contracts to 2,500 square feet (AB1492- Laird). Under AB 1492, Williamson Act contract violations involving non-agricultural development over 2,500 square feet in floor area that are not required for or part of the agricultural use, are subject to substantially higher penalties. This amendment reflects the concerns of the Department of Conservation that non-agricultural development on protected farmlands is undermining both the intent and integrity of the Williamson Act throughout the state.[17] The New Jersey Farmland Affordability/Availability Working Group has also recommended establishing a 2,500-square-foot limit for new residential development on farmlands in order to address the issue of residential development on preserved farmland.[18]

As stated in the Strong Associates Report, setting a limitation on the size of residential development on agricultural lands "is a policy decision that balances the long-term economic viability of agricultural use with the expectation of landowners to build a livable residence." In this case, the certified LCP does not provide specific guidance or requirements regarding residential size limitations on agricultural lands.

In this instance, the applicants have revised their project for the purposes of the Commission's *de novo* review and propose to develop a 1,790-square-foot, 18'-6"-high single-story house with a 576-square-foot attached garage, and 353 square feet of attached covered porches with decks (total building footprint of 2,719 square feet); and a detached 2,040-square-foot, 19'-4"-high accessory structure containing a 1,295-square-foot garage/workshop, a 640-square-foot guest cottage, and a 105-square-foot covered porch, plus ancillary developments.

The revised project design reduces the house size by 768 square feet and reduces the height of the house by 2.5 feet. Similarly, the applicants reduced the footprint of the workshop/garage/guest cottage structure by 98 square feet, and reduced the building height by 4.7 feet from natural grade. In addition, the revised design attaches the garage behind (northeast of) the house such that it is less visible from Highway One, and shifts the location of the house farther from the southern bluff edge and closer to the backdrop of trees along the northern parcel boundary. The resulting design not only reduces the overall height, profile, and footprint of the development, but clusters the buildings more closely together consistent with the agricultural provisions of the LCP requiring the concentration of development.

Therefore, the project as revised for the Commission's *de novo* review consists of a total habitable internal floor area (excluding non-habitable space such as garages and unenclosed decks or patios) of 2,430 square feet, including 1,790 square feet for the single-family residence and 640 square feet for the guest cottage space, which is consistent with the nationwide recommended 2,500-square-foot limit for new residential development on farmlands.

While the subject property will not be maintained in agricultural use, the adjacent property is actively maintained in agricultural production. The Commission finds that the decreased size of

[17] Dennis O'Bryant, California Department of Conservation, May 9, 2005.
[18] Recommendations of the New Jersey Farmland Affordability/Availability Working Group, September 23, 2004.

the residential development proposed by the applicant for purposes of its *de novo* review adequately ensures that the permitted conversion is compatible with continued agricultural use on surrounding lands because the pressure placed on the land values of agricultural lands in the area by developing the parcel for a residential use is minimized. The decreased size of the residential development not only conforms to the typical scale of existing residential development in the surrounding Rural Residential areas (median 2,315 square feet, average 2,354 square feet), it also conforms to the 2,500 square foot limit recently established under the California Land Conservation Act (Williamson Act). Further, since **Special condition 14** requires a coastal development permit amendment for all future improvements and changes to the approved development, no increase in the maximum internal habitable floor area (excluding non-habitable space such as garages and unenclosed decks or patios) of the single-family residence and 640-square-foot guest cottage will occur without a Commission approved amendment to this coastal development permit ensuring that the amended development remains compatible with continued agricultural use on surrounding lands.

If the permittee seeks such a coastal development permit amendment, the amendment application must be accompanied by evidence demonstrating that the amended development is compatible with continued agricultural use on surrounding lands.

Minimizing Direct Conflicts with Adjacent Agricultural Lands

Conflicts may occur between residential and agricultural land uses when in close proximity. Typical conflicts where urban and agricultural lands meet include noise, dust, and odors from agricultural operations; trespass and trash accumulation on agriculture lands; road-access conflicts between agriculturally related machinery and automobiles; limitations of pesticide application, urban garden pest transfer, theft, vandalism; and human encroachment from urban lands. Such conflicts can threaten continued agricultural cultivation when its proximity to non-agricultural uses (such as residential) raises issues and/or concerns with standard agricultural practices (such as chemical spraying and fertilizing) or ongoing agricultural by-products (such as dust and noise from machine operations associated with cultivating, spraying, and harvesting), which may post a threat to the non-agricultural uses.

The land use policies of the certified LCP strive to minimize such conflicts by requiring buffers between developments in residential areas and agricultural lands. LUP Policy 3.2-9 and CZC Section 20.508.020(A)(1) require that site plans in a residential area should not result in a residential structure being located closer than 200 feet from a parcel designated for agricultural use unless there is no other feasible building site on the parcel. LUP Policies 3.2-12 and 3.2-13 limit residential development adjacent to Type I and Type II Agricultural Preserves, respectively, to restrict such developments from occurring closer than 200 feet from the property lines of the protected agricultural resource or from the farthest feasible point from said property lines.

The adjacent parcels to the north, south, and east are not Type I or Type II Agricultural Preserves. According to the Mendocino County Tax Assessor's office[19], one parcel with Type II Agricultural Preserve designation occurs three parcels to the south of the subject parcel. The adjoining property to the north and east of the subject parcel is currently leased to a local farmer as part of a cattle ranch, and is actively used for cattle grazing. The subject parcel is not located in a residential area but rather is located on Range Lands-designated agricultural lands. The

[19] Personal communication July 19, 2012 with Dirk Larson, County Appraiser.

residential development is located 25-30 feet from the northern property line, 75-100 feet from Grand Fir ESHA along the eastern portion of the property, and is sited the recommended 40 feet minimum from the steep bluff edge along the southern property boundary. Given these site constraints in addition to the visual subordination requirements discussed further below, the development has been sited in the only feasible site.

In other agricultural communities statewide, local governments have required Right to Farm provisions for non-agricultural land use projects that extend into agricultural areas or that exist side by side. Since agricultural operations can be the subject of nuisance complaints where residential uses encroach on agricultural lands, Right to Farm disclosures effectively put current and future property owners on notice to be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in a county with a strong rural character and a healthy agricultural sector. Therefore, to ensure that potential conflicts between residential use on the project site and agricultural land uses on the adjacent properties do not impair the continued viability of agricultural production, the Commission imposes **Special Condition No. 1** that requires Permittees to acknowledge and accept such inconveniences and/or discomforts from normal, necessary farm operations as an integral part of occupying property adjacent to agricultural uses. In addition, **Special Condition 2** requires the applicant to record a deed restriction imposing the special conditions of this permit as covenants, conditions, and restrictions on the use and enjoyment of the property.

Conclusion

The proposed project as revised for the purposes of the Commission's *de novo* review seeks to develop a 1,790-square-foot single-story house with a 576-square-foot attached garage, and 353 square feet of attached covered porches with decks (total building footprint of 2,719 square feet); and a detached 2,040-square-foot accessory structure containing a 1,295-square-foot garage/workshop, a 640-square-foot guest cottage, and a 105-square-foot covered porch, plus ancillary developments on designated agricultural land. The proposed uses result in a permissible conversion of agricultural lands allowable under LUP Policies 3.2-5 and 3.2-16, and CZC Section 20.532.100(B)(3) only if it can be demonstrated by an economic feasibility evaluation that continued or renewed agricultural use is not feasible, and that such a conversion shall be compatible with continued agricultural use of surrounding parcels.

Approximately 1.1 acres of the subject parcel contain Grand Fir forest, which is ESHA, and as ESHA the Mendocino County LCP only allows those uses that are dependent on ESHA to occur within the ESHA and the 100-foot minimum ESHA buffers. Commission staff has visited the site on several occasions and reviewed aerial imagery, site topography, and on-site conditions of the subject parcel. Based upon review of these features and on calculations using ArcGIS software, approximately 1.28 acres of the subject property occurs on steep (greater than 40%), rocky slopes that would not realistically support agricultural use. The remaining portion of the 4.17 acre property that is neither ESHA nor steep slopes comprises 1.79 acres. [4.17 acre parcel minus (1.1 areas of ESHA + 1.28 acres of steep slopes) = 1.79 acres.]

Although the subject property has been used in the past as range land for cattle when this parcel was owned by a family which owned numerous parcels of conjoining lands, the parcel has not been grazed since prior to the applicant's acquisition of the parcel in 2005. The applicants have submitted an agricultural analysis which demonstrates, consistent with CZC sections 20.532.100(B)(3) and 20.524.015(C)(3), that while some non-economic agricultural use of the

subject parcel is possible (mostly at a hobbyist or home-garden level), it is not *economically* feasible to renew agricultural use of the site because the 1.67 acres of space useable for agriculture could be expected to provide a gross annual yield of only $812 total- or $486 per acre, even assuming the applicants use unpaid family labor living on site.

The Commission finds that with the reduced development footprint submitted by the applicants for *de novo* review, the pressure placed on the land values of agricultural lands in the area by developing the subject parcel for a residential use is minimized. The reduced development footprint not only conforms to the typical scale of existing residential development in the surrounding Rural Residential areas (median 2,315 square feet, average 2,354 square feet), it also conforms to the limit recently established under the California Land Conservation Act (Williamson Act).

Furthermore, the requirements of **Special Condition Nos. 1 and 2** that the applicants record a deed restriction stating that the owners acknowledge and accept such inconveniences and/or discomforts from normal, necessary farm operations as an integral part of occupying property adjacent to agricultural uses, will help reduce potential conflicts between the residential use and the adjacent agricultural lands.

Therefore, the Commission finds that the proposed development, as conditioned, is a permissible conversion of agricultural land and is compatible with the long-term protection of the RL resource lands as required by LUP Policies 3.2-1, 3.2-5, and 3.2-16, and Sections 20.368.005, 20.524.015, and 20.532.100 of the certified coastal zoning code.

H. GEOLOGIC HAZARDS

The June 2008 geologic report that was prepared for the subject site by SHN Consulting Engineers and Geologists (SHN) describes the parcel as occurring on a gently southwest sloping stream valley wall or bluff top. The parcel slopes gently to the southwest before dropping steeply along the southern and eastern parcel boundaries. The bluff-top parcel is located east of Highway One and does not have ocean frontage. As described in the geologic report, the southerly boundary of the project site abuts the crown of a southwest facing cliff that parallels the north bank of Salmon Creek. Slope gradients on the southerly cliff face range from 50% to near vertical. An access road (Spring Grove Road) has been cut into the lower benches of the southerly bluff and continues underneath Highway One to serve developments on the west side of the highway.

The geologic report indicates that "recent and historic ground movement is evident along portions of the bluff edge as well as on the surfaces of the bluff slope leading down to the Little and Big Salmon Rivers." The report identifies a possible older scarp feature (**Exhibit 16)** southwest of the proposed residence, and the head of a small gully ("erosion feature") immediately south of the project site. According to the geologic report, a trace of the San Andreas Fault is located approximately three miles west (off the coast) of the subject site. The report indicates that "no known faults have been mapped passing through the project site, nor was any evidence of active faulting observed in the field."

The Mendocino County LCP requires that a bluff setback for new structures be determined by multiplying the structure life (~75 years) by the retreat rate of the bluff, which shall be determined from historical observation and/or a complete geotechnical investigation (Policy 3.4-7 of the LUP). Following a site investigation and comparison of aerial photographs taken between 1963 and 2005, SHN determined that a long-term average retreat rate of 4 feet would

occur over the design life (75 years) of the proposed project. However, given the proximity of the project site to the San Andreas Fault, and taking into consideration the geomorphic observations from their field assessment, SHN recommends a setback of 40 feet from all structures and both the potential scarp and bluff edge. The proposed development establishes development setbacks of at least 40 feet back from the scarp and bluff accordingly.

SHN concluded based upon their field and laboratory investigations that the project site can be developed as proposed if their recommendations for the site development are followed. The geologic report contains recommendations regarding site preparation and grading, foundations, slabs-on-grade, corrosion, drainage, and erosion. The recommendations are found in Section 7 of the geotechnical report dated June 2008, which is reproduced and included as **Exhibit No. 16** of the Commission staff report.

To ensure that the development conforms to the recommendations listed in the engineering geologic report, the Commission attaches **Special Condition No. 7**, which requires the applicant, prior to issuance of the coastal development permit, to submit, for the review and approval of the Executive Director, evidence that an appropriate licensed professional has reviewed and approved all final design and construction plans for the project element and certified that each of those final plans is consistent with all of the recommendations specified in the above-referenced geologic evaluation.

Although the project has been evaluated and designed in a manner to minimize the risk of geologic hazards, and although the Commission is requiring with **Special Condition No. 7** that the applicant adhere to all recommended specifications to minimize potential geologic hazards, some risk of geologic hazard still remains. This risk is reflected in the June 2008 SHN geotechnical report, which references various "limitations" of the analysis. The SHN geotechnical report states that the geotechnical investigation and review of the proposed development was performed in substantial accordance with the generally accepted geotechnical engineering practice as it exists in the site area at the time of their study. The report further states, "…*No warranty is expressed or implied"* This language in the report itself is indicative of the underlying uncertainties of this and any geotechnical evaluation and supports the notion that no guarantees can be made regarding the safety of the proposed development with respect to geologic hazards.

Given that the risk cannot be eliminated, the Commission finds that due to the inherently hazardous nature of this lot and the fact that no geology report can conclude with certainty that a geologic hazard does not exist, it is necessary to attach **Special Condition No. 8**, whereby the applicant acknowledges in part, by acceptance of this permit, that the site may be subject to hazards from landslide, erosion, subsidence, and earth movement. Given that the applicant has chosen to implement the project despite the geologic risks, the applicant must assume the risks. In this way, the applicant is notified that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires the applicant to indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand hazards. In addition, **Special Condition No. 2** requires the applicants to record a deed restriction to impose the special conditions of the permit as covenants, conditions and restrictions on the use and enjoyment of the property. This special condition is required, in part, to ensure that the development is consistent with the Coastal Act and to provide notice of potential hazards of the property and help eliminate false expectations on the part of potential buyers of the property, lending institutions, and insurance agencies that

the property is safe for an indefinite period of time and for further development indefinitely into the future, and will ensure that future owners of the property will be informed of the Commission's immunity from liability, and the indemnity afforded the Commission.

The Commission thus finds that the proposed development, as conditioned, is consistent with the policies of the LCP regarding geologic hazards, including LUP Policy 3.4-7, and CZC Sections 20.500.010(A), 20.500.015, and 20.500.020 because the development as conditioned (1) will not contribute significantly to the creation of any geologic hazards, and (2) will not have adverse impacts on the stability of the coastal bluff or on erosion. Only as conditioned is the proposed development consistent with the LCP.

I. VISUAL RESOURCES

As described above, the project site is located approximately ¼-mile south of the small rural town of Albion and directly north of the Highway One bridge over Salmon Creek, east of and adjacent to Highway One. The project site is located within a designated highly scenic area.

The surrounding landscape consists of rolling hills east of Highway One and uplifted marine terrace bluff-tops west of Highway One. There is very little development located on either side of the highway in the immediate vicinity of the development site. Notable exceptions include a restaurant west of Highway One about 1/8-mile north, the Pacific Reef's residential subdivision south of Salmon Creek on the west side of Highway One (which is not readily visible from the highway), and a few other scattered residences not readily visible from Highway One on either side of the highway.

The protection of visual resources is required under Section 30251 of the Coastal Act, and in certifying LUP Policy 3.5-1, the Commission concurred with the introductory language of that policy that the scenic and visual quality of the Mendocino County coastal area be considered and protected as a resource of public importance. The proposed development would be visible from State Highway One, the sole continuous highway through the Mendocino County coastal zone. Highway One brings visitors from throughout the region, state, and world to the coast to enjoy its beauty.

Many appeals from Mendocino County raise issues of visual resource protection, and in acting on these appeals *de novo*, the Commission has denied some projects because of inconsistencies with visual resource protection policies. The Commission often conditions permits it approves to require the applicant to relocate, redesign, or screen proposed development specifically to protect views of the ocean and scenic coastal areas.

LUP Policies 3.5-1 and 3.5-3 and CZC Section 20.504.020(D) require in part that new development in highly scenic areas be visually compatible with and subordinate to the character of its setting. The original project approved by the County included construction of: (1) a 2,524-square-foot, 21-foot-high single-story house with a 634-square-foot attached garage, and 329 square feet of attached covered porches (3,487 square feet total); and (2) a detached 2,138-square-foot, 24-foot-high accessory structure containing a 1,516-square-foot garage/workshop, a 501-square-foot guest cottage and a 121-square-foot covered porch. The County staff report described the development as follows:

> *Story poles for both of the proposed buildings have been erected on site…the building site is a relatively gently sloping open grassland which provides stunning views of the Little-Big Salmon Rivers mouth, bridge, and ocean beyond. The*

> *building site is highly visible from Highway 1 south of the site. When a traveler is south of the Salmon River Bridge heading north, the proposed buildings will be highly visible. When a traveler is on the bridge traveling north, the buildings will silhouette the skyline. …*

LUP Policy 3.5-4 and CZC Section 20.504.015 require in part that the visual impacts of development on terraces within highly scenic areas be minimized by: (1) avoiding development in large open areas if an alternative site exists; (2) minimizing the number of structures and clustering them near existing vegetation, natural landforms or artificial berms; (3) providing bluff setbacks for development adjacent to or near public areas along the shoreline; and (4) designing development to be in scale with the rural character of the area. Commission staff has visited the project site on several occasions and worked with the applicants to reduce the visual impact of their development design. Part of the challenge of siting and designing the development to be subordinate to the character of its setting is the site's prominence from Highway One to northbound travelers and the fact that the immediate setting east of the highway consists of mostly undeveloped rangeland and Grand Fir forest with virtually no other development visible east of the highway.

The applicants have revised their project for the purposes of the Commission's *de novo* review and propose to develop a 1,790-square-foot, 18'-6"-high single-story house with a 576-square-foot attached garage, and 353 square feet of attached covered porches with decks (total building footprint of 2,719 square feet); and a detached 2,040-square-foot, 19'-4"-high accessory structure containing a 1,295-square-foot garage/workshop, a 640-square-foot guest cottage, and a 105-square-foot covered porch, plus ancillary developments. The revised project design reduces the house size by 768 square feet and reduces the height of the house by 2.5 feet. Similarly, the applicants reduced the footprint of the workshop/garage/guest cottage structure by 98 square feet, and reduced the building height by 4.7 feet from natural grade. In addition, the revised design attaches the garage behind (northeast of) the house such that it is less visible from Highway One, and shifts the location of the house farther from the southern bluff edge and closer to the backdrop of trees along the northern parcel boundary. The resulting design not only reduces the overall height, profile, and footprint of the development, but clusters the buildings more closely together and against a backdrop of existing trees.

To facilitate further screening of the proposed development, the applicants have additionally proposed to plant native vegetation landward of the bluff edge to augment the sparser, existing herbaceous and shrub vegetation located along the bluff edge. After revising the siting and design of the project, the applicant erected new story poles matching the redesigned project. The applicant has also submitted a visual analysis showing the visual effects of the proposed planting of vegetation on the property (**Exhibit 6**). The analysis demonstrates that although portions of the development will still be visible to some extent from the highway as travelers cross the Salmon Creek Bridge in the northbound directions, the buildings will (a) appear relatively small and low against the landscape, (b) be set against a backdrop of the Grand Fir forest trees that will tower over the maximum height of the structures and will continue to be the dominant feature of the landscape, and (c) be partially screened by existing and planted vegetation. In addition, the design of the structures incorporates architectural features of wooden barns and agricultural structures found along that part of the Mendocino Coast to help ensure the development is compatible with character of development within the general setting of the development.

On September 12, the Commission was able to view the site from both northbound and southbound directions along Highway One during the field trip scheduled as part of the Commission meeting held in Caspar, Mendocino County. Following the Commission's site visit, Commission staff identified additional locations for landscape screening that would further minimize the visual impacts of the development, including locations approximately 30 feet to the southwest of both of the approved structures. The California Department of Forestry and Fire Protection (CalFire) included as part of their .recommended Conditions for Approval dated September 22, 2008 (CDF # 315-08) a requirement for maintaining Defensible Space pursuant to Public Resources Code Section 4291. On November 14, 2012, Commission staff contacted CalFire staff from the Prevention Unit to discuss whether screening vegetation could be planted near the house and garage/workshop/guest cottage structures and still be consistent with CalFire's recommendations. CalFire staff provided guidance for planting of vegetation near the structure, such as planting screening vegetation no closer than 30 feet from the structures; pruning vegetation from growing towards the house; and removing dead material.

As redesigned and conditioned, as discussed below, to require the additional landscaping and other visual mitigations, the Commission finds that the development will be visually compatible with and subordinate to the character of its setting consistent with LUP Policies 3.5-1 and 3.5-3 and CZC Section 20.504.020(D), and that the visual impacts of development at the site have been minimized consistent with LUP Policy 3.5-4 and CZC Section 20.504.015.

LUP Policies 3.5-1 and 3.5-3 and CZC Section 20.504.020(D) require permitted development to be sited and designed to protect views to and along the ocean and scenic coastal areas from public areas including highways and roads. The principal public vantage point for viewing the coast in the immediate project vicinity is Highway One. As the subject site will be located east of the highway, the development will not block views to the ocean. In addition, the development is sited far enough off the highway in a location where it will not block views from the highway along the coast. As discussed above, the development will be visually compatible and subordinate to the character of its setting. Therefore, the Commission finds that development will be sited and designed to protect views to and along the ocean and scenic coastal areas.

LUP Policy 3.5-1 and CZC Section 20.504.020 in part require that new development in highly scenic areas minimize the alteration of natural landforms. The applicant anticipates approximately 15 cubic yards of grading will occur for the construction of the house with attached garage and the workshop/garage/guest cottage. While the proposed driveway will require 273 cubic yards of grading, the applicant indicates that eight inches of existing earth will be cut and replaced with five inches of base drain rock and a three-inch top coat of shale, such that the area will be graded back to existing grade. In addition, the project as modified for the Commission's *de novo* review results in a smaller driveway footprint than that originally approved by the County. Thus, the Commission finds that the development as conditioned will minimize the alteration of natural landforms consistent with LUP Policy 3.5-1.

As noted above, the Commission's finding that the development will be visually compatible with and subordinate to the character of its setting is based in part on the inclusion of certain special conditions. Special Condition No. **15A** requires that the applicants finish the exterior of the buildings with the colors and materials proposed. The house exterior siding will consist of redwood shingles with a warm brown semi-transparent stain (Sherwin Williams "charwood") and will include a red brick masonry chimney. The applicants propose to use redwood vertical board and batten siding with a warm brown semi transparent stain (Sherwin Williams

"charwood") for the workshop/garage/guest cottage (also described as "the Barn" in **Exhibits 4 and 5** building floor plans and elevations). For both structures, the applicants propose to use black or charcoal grey roof shingles and paint all metal features (except copper) either black or charcoal grey. The applicants additionally propose to use Milgard windows with bronze anodized aluminum frames. The courtyard fence will be constructed using cedar boards stained to match the house. Proposed exterior lighting consists of downcast lights enclosed in a custom-built wood box on the western house porch, southeastern house porch, northwestern house elevation, along the northwestern (fenced) courtyard wall, and along the western "barn" porch. In addition, a gooseneck downcast light is proposed for the northern side of the "barn." Refer to pages 3 and 4 of **Exhibit 4** for details.

The Commission finds that the dark colors of the roof, siding and trim, combined with the backdrop of trees will help blend the residence into its surroundings as seen from these vantage points rather than cause the residence to stand out. However, the Commission finds that if the applicant or future owner(s) of the property choose to change the materials or colors of the residence to brighter, non-earth-tone colors or materials, the development may no longer be visually compatible with or subordinate to the character of the surrounding area and may become increasingly visible from public vantage points. To ensure that the exterior building materials and colors used in the construction of the development are compatible with natural-appearing earth-tone colors that blend with their surroundings as proposed, the Commission attaches **Special Condition No. 15A**, which requires that all exterior siding and roofing be composed of the colors proposed in the application or darker earth-tone colors only. The condition prohibits the current owner or any future owner from modifying the colors or materials of the house or other approved structures with products that will lighten the color of the house or other approved structures without a permit amendment. In addition, all exterior materials, including roofs and windows, are required to be non-reflective to minimize glare. Additionally, **Special Condition No. 15B** requires that exterior lights be shielded and positioned in a manner that will not allow glare beyond the limits of the parcel. These requirements will help ensure that the proposed residence in this location will be visually subordinate to the character of the surrounding area.

The Commission has determined that the particular development as revised for purposes of the Commission's de novo review and as conditioned will be subordinate to the character of its setting. Future additions or changes to the development could have significant adverse visual impacts and could result in a modified development that is not subordinate to the character of its setting as required by the LCP policies.

Section 30610(a) of the Coastal Act and Chapter 20.532 of the County's Coastal Zoning Code exempt certain additions to existing single family residential structures from coastal development permit requirements. Pursuant to this exemption, once a house has been constructed, certain additions and accessory buildings that the applicant might propose in the future are normally exempt from the need for a permit or permit amendment.

However, Section 30610(a) requires the Commission to specify by regulation those classes of development which involve a risk of adverse environmental effects and require that a permit be obtained for such improvements. Pursuant to Section 30610(a) of the Coastal Act, the Commission adopted Section 13250 of Title 14 of the California Code of regulations. Section 13250 specifically authorizes the Commission to require a permit for additions to existing single-family residences that could involve a risk of adverse environmental effect. Section 13250(b)(1) indicates that improvements to a single-family structure in an area within 50 feet of the edge of a

coastal bluff and/or within a designated highly scenic area involve a risk of adverse environmental effect and therefore are not exempt. The subject property is within a designated highly scenic area. Therefore, pursuant to Section 13250(b)(1) of the Commission's regulations, **Special Condition No. 14** expressly requires all future improvements and change to the approved development obtain a coastal development permit amendment to ensure that future improvements are sited and designed in a manner that protect coastal views from public vantage points and remains subordinate to the character of its setting. As discussed above, **Special Condition No. 2** also requires that the applicant record and execute a deed restriction approved by the Executive Director against the property that imposes the special conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. **Special Condition No. 2** will also help assure that future owners are aware of these CDP requirements applicable to all future development.

As described in **Finding F** above, the Commission has attached **Special Condition No. 3** that designates the Grand Fir ESHA and surrounding buffer as an open space area in order to minimize any potential impacts to Grand Fir ESHA. Because **Special Condition No. 3** prohibits essentially all development in the open space area[20] that includes approximately 1.1 acres of Grand Fir forest and approximately 0.8 acre of ESHA buffer, the special condition also serves to further protect visual resources on a large portion of the subject 4.17-acre parcel.

Special Condition No. 9(A)(iii) requires the applicants to submit a final landscaping plan showing the species, size, and location of all plant materials that will be retained and newly planted on the developed site, and further requires that all proposed plantings shall be obtained from local genetic stocks within Mendocino County. **Special Condition No. 9(A)(iii)** also requires that screening vegetation be planted 30 feet from the southern elevation of each of the two approved structures and in a natural, non-linear configuration along and landward of the crown of the southwest facing cliff on the property. To further minimize the view of development from Highway One, **Special Condition No. 9(A)(iii)** requires that vegetation will substantially screen (i.e., at minimum screen 70% of) the structures developed on the site within 5 years of planting.

To ensure that screening vegetation is planted expeditiously, **Special Condition No. 9 (A)(iii)(b)(5)** requires submittal of a landscaping schedule that demonstrates that: (1) all landscape planting shall be completed prior to occupancy; and (2) that all screening vegetation shall be planted within 60 days of the first fall/early winter period following issuance of this coastal development permit. In addition, **Special Condition No. 19** requires the applicant to submit photos to the Commission within 60 days of installation of screening vegetation that demonstrate that all screening vegetation has been planted consistent with the revised landscaping plans and with the terms of this permit.

In addition, **Special Condition No. 9(A)(iii)** requires all plantings installed for visual screening on the parcel shall be maintained in good condition such that the vegetation continues to screen 70% of the structures developed on the site after the first five years following planting and

[20] Special Condition No. 3 prohibits all development in the open space area except for: a) removal of non-native vegetation; b) the planting of native vegetation or vegetation clearance if required by CalFire, and if approved by further amendment of the permit; and c) the development of the southeast corner of the garage/workshop/guest cottage building and a portion of the septic system leachfield in areas no closer than 50 feet from the Grand Fir Forest ESHA in the configuration and locations approved by the Commission as part of this permit.

throughout the life of the project, and shall be replaced if any die, become decadent, rotten, or weakened by decay or disease, or are removed for any reason, with another native species common to the coastal Mendocino County area that will grow to a similar or greater height.

To help in the establishment of vegetation, rodenticides are sometimes used to prevent rats, moles, voles, gophers, and other similar small animals from eating the newly planted saplings. Certain rodenticides, particularly those utilizing blood anticoagulant compounds such as brodifacoum, bromadiolone and diphacinone, have been found to pose significant primary and secondary risks to non-target wildlife present in urban and urban/wildland areas. As the target species are preyed upon by raptors or other environmentally sensitive predators and scavengers, these compounds can bio-accumulate in the animals that have consumed the rodents to concentrations toxic to the ingesting non-target species. Therefore, to minimize potential significant adverse impact of rodenticide use to other environmentally sensitive wildlife species, the Commission has included as **Special Condition No. 9(A)(iii)** a prohibition against the use of any rodenticides on the property.

LUP Policy 3.5-8 and CZC Section 20.504.015(C)(12) (refer to visual resource policies in **Appendix I**) require that power distribution lines be placed underground in designated "Highly Scenic Areas" west of Highway One. While the subject development is located east of Highway One, the applicants propose to place power transmission lines underground. Thus, the Commission attaches **Special Condition No. 15C** to require that all utility extensions connected to development authorized pursuant to CDP No. A-1-MEN-09-034 are placed underground as proposed, and that all areas disturbed by underground utility installation be recontoured and revegetated with native grasses and forbs of local genetic stock appropriate to coastal Mendocino County.

In conclusion, the Commission finds that as conditioned, the siting and design of the proposed development as modified for the Commission's *de novo* review is consistent with the visual resource protection policies of the Mendocino County certified LCP, including but not limited to LUP Policies 3.5-1, 3.5-3, 3.5-4, 3.5-5, 3.5-8, and 3.5-15, and Coastal Zoning Code Sections 20.504.010 and 20.504.015 as the development will (1) be visually compatible and subordinate to the character of its setting, (2) minimize the visual impacts of development at the site, (3) not adversely affect coastal views from public vantage points, (4) minimize alteration of natural landforms, and (5) ensure that exterior lighting is minimized and installed so as not to shine or glare beyond the limits of the parcel.

J. STORMWATER RUNOFF

Storm water runoff from new residential development can adversely affect the biological productivity of coastal waters by degrading water quality. LUP Policy 3.1-25 requires the protection of the biological productivity of coastal waters. Mendocino County Coastal Zoning Code (CZC) Sections 20.492.015 and 20.492.020 set forth erosion control and sedimentation standards to minimize erosion and sedimentation of environmentally sensitive areas and off-site areas (refer to **Appendix J** for stormwater runoff LCP policies). Specifically, Sections 20.492.015 and 20.492.020(B) require that the maximum amount of vegetation existing on the development site shall be maintained to prevent sedimentation of off-site areas, and where vegetation is necessarily removed during construction, native vegetation shall be replanted afterwards to help control sedimentation. Furthermore, CZC Section 20.492.025 requires that provisions shall be made to infiltrate and/or safely conduct surface water to prevent runoff from damaging cut and fill slopes.

As discussed above, the subject parcel is located on a bluff top. Runoff from the parcel flows southerly and westerly downward toward the stream valley wall (bluff face) above the junction of Little and Big Salmon Creeks. Runoff originating from the development site that is allowed to drain off the site would contain entrained sediment and other pollutants that would contribute to degradation of the quality of coastal waters, including downstream marine waters. Sedimentation impacts from runoff would be of the greatest concern during and immediately after construction.

The geotechnical report prepared for the project by SHN specified erosion control/drainage measures that include designing the finish grade to allow sheet runoff rather than concentrated runoff, connecting roof gutters and downspouts into a storm drain system where possible, and dissipating concentrated runoff with energy flow dissipators and erosion resistant surfacing as appropriate. Consistent with CZC Section 20.492.020(B), the Commission includes within attached **Special Condition No. 9A(ii)** a requirement that the applicants minimize erosion and sedimentation impacts from the proposed construction of the residence. **Special Condition No. 9A(ii)** requires that the applicants submit for the review and approval of the Executive Director revised plans that include erosion and runoff control measures. **Special Condition 9(A)(ii)(5)** requires that runoff from the driveway and rooftops shall be collected and conveyed to a drainage sump, rain garden, rain storage barrel, rock gabion, or other facility designed for collection and infiltration in a non-erosive manner. In addition, all disturbed soil areas should be reseeded and covered with native vegetation to control erosion, pursuant to **Special Condition 9 (A)(ii)(3)** and that conforms with the planting limitations of **Special Condition Nos. 9(A)(iii)(3) and 9(A)(iii)(4).** The erosion and runoff control plan must also include provisions that: (1) hay bales be installed to contain runoff from construction and demolition areas; (2) on-site vegetation be maintained to the maximum extent possible during construction; and (3) washing-out of concrete delivery vehicles, disposal of solid waste, or release of any hazardous materials on the parcel be prohibited.

In addition, best management practices outlined in **Special Condition Nos. 13D, 13F, 13G, 13H,** and **13I** require that during construction: (1) weed-free hay bales be installed to contain runoff from construction and demolition areas; (2) best management practices be effective at controlling sediment and surface runoff during the rainy season; (3) on-site vegetation be maintained to the maximum extent possible during construction; (4) any disturbed areas be replanted with noninvasive native plants obtained from local seed stock immediately following project completion and covered with jute netting, coir logs, and rice straw; and (5) on-site stockpiles of construction debris shall be covered and contained at all times to prevent polluted water runoff. Consistent with CZC Section 20.492.025(E), the applicants propose to surface the driveway with gravel to facilitate infiltration into the ground of greater amounts of runoff from the driveway.

The Commission finds that as conditioned, the proposed development is consistent with CZC Sections 20.492.015 and 20.492.020 because erosion and sedimentation will be controlled and minimized by (1) maintaining on-site vegetation to the maximum extent possible; (2) replanting or seeding any disturbed areas with native vegetation following project completion; (3) using hay bales to control runoff during construction, and (4) directing runoff from the completed development in a manner that would provide for infiltration into the ground. Furthermore, the Commission finds that the proposed development as conditioned to require these measures to control sedimentation from storm water runoff from the site is consistent with the provisions of LUP Policy 3.1-25 requiring that the biological productivity of coastal waters be sustained.

Moreover, the Commission finds that the proposed development is consistent with CZC Section 20.492.025(E) because, as conditioned, runoff from the roofs will be directed into vegetated areas and the gravel driveway will facilitate infiltration of runoff and minimize erosion and sedimentation from stormwater runoff.

K. ARCHAEOLOGICAL RESOURCES

Coastal Act Section 30244 provides for protection of archaeological and paleontological resources and requires reasonable mitigation where development would adversely impact such resources.

According to the Archaeological Survey report dated March 26, 2005 and prepared by Registered Professional Archaeologist Thad Van Bueren, the coastal area around the project site was part of the traditional territory of the Northern Pomo indigenous peoples. Their territory extended from the west shore of Clear Lake to the Pacific Ocean, encompassing coastal lands from Cleone south to the vicinity of the Navarro River.

More than ten prior archaeological surveys have been conducted within a 1.5- mile radius of the subject parcel, but the report author indicates these survey projects were small in scope and "do not provide a scientifically valid basis generating confident predictions regarding where sites are likely to be found." The archaeological report indicates the following:

> While less than 5% of the land within a one mile radius of the subject site has been subject to systematic archaeological survey, four sites have been recorded within the nearby area. They include a prehistoric site, a logging camp, a logging railroad, and a historic refuse dump."

The archaeological report describes non-indigenous settlement of the surrounding area as initiated in the 1840s in connection with Mexican land grants, at which time some effort was made to harvest and mill coastal redwoods. The report states that "in 1844 Mexican Governor Michelton gave William Richardson the eleven-league Albion land grant, which included much of the coastal area surrounding the project area... The town of Whitesboro was established just east of the confluence of Big and Little Salmon creeks around 1876." The report describes the creation of a railroad up Salmon Creek at that time which was used to bring railroad ties down to the wharf at the mouth of the creek, and the construction of a mill in Whitesboro in 1880. The report further describes that the south edge of the subject parcel fronts on the former historic road that went south from Albion to Whitesboro, and that served as a precursor to the modern coast highway. In 1950 CalTrans built the current bridge that crosses Salmon Creek.

No evidence of archaeological resources was observed during Mr. Van Bueren's intensive archaeological field survey of the subject parcel that included transects spaced no more than 10 meters apart. Mr. Van Bueren notes that findings are based on surface inspection and limited shallow probing only, and recommends that in the unlikely event archaeological remains come to light during construction activities, that all work should be halted until a professional archaeologist can examine the finds.

To ensure protection of any cultural resources that may be discovered at the site during construction of the proposed project, and to implement the recommendation of the archaeologist, the Commission attaches **Special Condition No. 17.** This condition requires that if an area of cultural deposits is discovered during the course of the project, all construction must cease, and a qualified cultural resource specialist must analyze the significance of the find. To recommence

construction following discovery of cultural deposits, the applicant is required to submit a supplementary archaeological plan for the review and approval of the Executive Director to determine whether the changes are *de minimis* in nature and scope, or whether an amendment to this permit is required.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Section 30244, as the development will not adversely impact archaeological resources.

L. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Mendocino County is the lead agency for the purposes of CEQA review. On June 25, 2009, the County coastal permit administrator determined that the proposed project was categorically exempt from CEQA pursuant to Class 3 consistent with the findings of the County staff report.

Section 13096 of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirement of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect the proposed development may have on the environment.

The Commission incorporates its findings on conformity with Coastal Act policies at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed herein, in the findings addressing the consistency of the proposed project with the certified Mendocino County LCP, the proposed project has been conditioned to be found consistent with the certified Mendocino County LCP and Section 30010 of the Coastal Act. All feasible mitigation measures, which will minimize all significant adverse environmental impacts have been required. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

Appendix A
Substantive File Documents

House Agricultural Consultants. May 5, 2012. Agricultural Feasibility Study: Malin-Marr Property, Albion, CA. Revision number 3502.

Maslach, William. November 2007. Botanical Survey and ESHA Assessment for 2800 Highway One, Albion, California, Mendocino County, APN 123-350-04. Revised February 2009.

Mendocino County CDP No. 57-2008.

Mendocino County Local Coastal Program

Nelson, Playalina. August 2010. Wetland Mitigation Plan Prepared for 2800 Highway One, Albion, California (APN 123-350-04), CDP-57-2008 Marr & Malin. Santa Rosa, CA.

_____,. June 1, 2009. Mitigation Measures for Project Changes at 2800 Highway One, Albion, California (APN 123-350-04).

SHN Consulting Engineers and Geologists, Inc. June 2008. Geotechnical and Geological Investigation: Proposed Single-Family Residence, 2800 North Highway 1, Albion, Mendocino County CA, APN 123-350-06 prepared for Mike Marr.

Van Buren, Thad. March 26, 2005. Archaeological Survey of the Marr Property in Albion, Mendocino County, California. Prepared for Michael Marr by Thad Van Buren, Registered Professional Archaeologist, Westport, CA.

Appendix B
Submittal of Additional Information by the Applicant

For the purposes of *de novo* review by the Commission, the applicant has provided Commission staff with supplemental information consisting of the following:

1. Wetland Mitigation Plan prepared by Playalina Nelson, Consulting Botanist, and dated August 2010;
2. Property interest and lot legality analysis information including Chain of Title documentation;
3. Revised site plans and artistic renderings dated January 10, 2011 (**Exhibits 3, 4, 5, and 6**);
4. Transmittal dated March 3, 2011, submitted to Commission staff from Agent Hartstock regarding 2010 Wetland Mitigation Plan (**Exhibit 13**);
5. Agricultural Feasibility Analysis transmitted September 27, 2011 by Stephen K. Butler;
6. Agricultural Feasibility Study prepared by House Agricultural Consultants, Revision number 3502 dated May 5, 2012 (**Exhibit No. 15**);

The supplemental information addresses issues that were raised by the appeal and provides additional information that was not a part of the record when the County originally acted to approve the coastal development permit. A comprehensive list of substantive file documents is included in **Appendix A**.

Appendix C
Mendocino County LCP Policies Regarding Planning and Locating New Development

Mendocino County Land Use Plan (LUP) Policy 3.9-1 states (emphasis added):

> *An intent of the Land Use Plan is to apply the requirement of Section 30250(a) of the Act that new development be in or in close proximity to existing areas able to accommodate it, taking into consideration a variety of incomes, lifestyles, and location preferences. Consideration in allocating residential sites has been given to:*
>
> *• each community's desired amount and rate of growth.*
>
> *• providing maximum variety of housing opportunity by including large and small sites, rural and village settings, and shoreline and inland locations.*
>
> *In addition to the considerations pertaining to the allocation of residential sites listed above, all development proposals shall be regulated to prevent any significant adverse effects, either individually or cumulatively, on coastal resources.*
>
> *One housing unit shall be authorized on every legal parcel existing on the date of adoption of this plan, provided that adequate access, water, and sewage disposal capacity exists and proposed development is consistent with all applicable policies of this Coastal Element and is in compliance with existing codes and health standards. Determination of service capacity shall be made prior to the issuance of a coastal development permit.*
>
> ***Sec. 20.368.020 Minimum Lot Area for RL Districts.***
>
> *One hundred sixty (160) acres. (Ord. No. 3785 (part), adopted 1991)*
>
> ***Sec. 20.368.025 Maximum Dwelling Density for RL Districts.***
>
> *One (1) unit per one hundred sixty (160) acres except as provided pursuant to Section 20.316.020 (Farm Employee Housing), Section 20.316.025 (Farm Labor Housing), Section 20.456.015 (Accessory Uses), Section 20.460.035 (Use of a Trailer Coach) and Section 20.460.040 (Family Care Unit). In no case shall there be more than four (4) dwellings per parcel whether single family residential, farm employee housing, farm labor housing, accessory living unit or family care unit, except where Chapter 20.412 "Clustering Development Combining District" applies. (Ord. No. 3785 (part), adopted 1991)*
>
> ***Sec. 20.368.030 Minimum Front, Rear and Side Yards for RL Districts.***
>
> *Fifty (50) feet each. (Ord. No. 3785 (part), adopted 1991)*

Sec. 20.368.035 Setback Exception.

Any nonconforming parcel which is less than five (5) acres shall observe a minimum front, side and rear yard of twenty (20) feet. (Ord. No. 3785 (part), adopted 1991)

Sec. 20.368.040 Building Height Limit for RL Districts.

Twenty-eight (28) feet above natural grade for non-Highly Scenic Areas and for Highly Scenic Areas east of Highway One. Eighteen (18) feet above natural grade for Highly Scenic Areas west of Highway One unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. Thirty-five (35) feet above natural grade for uninhabited accessory structures not in an area designated as a Highly Scenic Area (See Section 20.504.015(C)(2)). (Ord. No. 3785 (part), adopted 1991)

Sec. 20.368.045 Maximum Lot Coverage for RL Districts.

Twenty (20) percent for parcels less than two (2) acres in size. Fifteen (15) percent for parcels from two (2) acres to five (5) acres in size. Ten (10) percent for parcels over five (5) acres in size. (Ord. No. 3785 (part), adopted 1991)

CZC Section 20.456.015 "Residential and Agricultural Use Types" specifies the accessory buildings and uses permissible in the district, as follows (emphasis added)

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

(A) Private Garages.

(B) Children's playhouse, patios, porches, gazebos, etc.

(C) Windmills.

(D) Shops (non-business purposes).

(E) Barns.

(F) Private swimming pools and hot tubs (not subject to setback requirements in the side or rear yards of any district).

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

…

(J) Travel Trailer or Camper. The maintaining of one (1) travel trailer or camper in dead storage where it is not used for occupancy or business purposes. All stored travel trailers or campers in excess of one (1) shall be stored out of sight from a public right-of-way. The connection, for any continuous period exceeding forty-eight (48) hours, of any utility or service such as electrical, water, gas or sewage to the travel trailer or camper shall be prima facie evidence that it is being used for habitation or business purposes.

…

(O) Other Necessary and Customary Uses. Accessory non-residential uses and nonresidential structures, in addition to those identified above, which are necessarily and customarily associated with, and are appropriate, incidental, and subordinate to a principal permitted use, as determined by the Director of Planning and Building Services. (Ord. No. 3785 (part), adopted 1991)

CZC Section 20.308.020 defines "Accessory Living Unit" as follows:

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

CZC Section 20.308.050(I) defines "Guest Cottage" as follows:

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

Land Use Plan (LUP) Policy 3.8-1 states, in applicable part, as follows (Emphasis added):

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

On the rural side of the Urban/Rural boundary, consideration shall be given to Land Use Classifications, 50% buildout, average parcel size, availability of water and solid and septage disposal adequacy and other Coastal Act requirements and Coastal Element policies.

Coastal Zoning Code (CZC) Section 20.532.095 "Required Findings for All Coastal Development Permits" states:

(A) The granting or modification of any coastal development permit by the approving authority shall be supported by findings which establish that:

(1) The proposed development is in conformity with the certified local coastal program; and

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

(3) The proposed development is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of this Division and preserves the integrity of the zoning district; and

(4) The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

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

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

Appendix D
Mendocino County LCP Policies Regarding Environmentally Sensitive Habitat Areas

Summary of Applicable LCP Provisions

Wetlands are defined in Section 3.1 of the Mendocino County Land Use Plan (LUP) as follows:

> ***Wetlands.*** *Lands which may be covered periodically or permanently with shallow water, including saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens. Wetlands are extremely fertile and productive environments. Tidal flushing from the ocean and/or nutrient-rich freshwater runoff mix to form a delicate balance responsible for their productivity. They function as nurseries for many aquatic species and serve as feeding and nesting areas for waterfowl, shorebirds and wading birds, as well as a few rare and endangered species.*
>
> *The edge or upland limit of wetlands is designated by the California Coastal Commission guidelines on wetlands as: (a) the boundary between land with predominantly hydrophytic (adapted to wet conditions) cover and land with predominantly mesophytic (adapted to average conditions) or xerophytic (adapted to dry conditions) cover; (b) the boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or, in the case of wetlands without vegetation or soils; (c) the boundary between land that is flooded or saturated at some time during years of normal precipitation and land that is not. Areas with drained hydric soils that are no longer capable of supporting hydrophytes (species adapted to wet conditions) are not considered wetlands.*

Wetlands are defined in Section 13577 of the Commission Regulations as follows:

> *Wetland shall be defined as land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deep-water habitats.*

LUP Policy 3.1-4 states:

> *As required by the Coastal Act, development within wetland areas shall be limited to:*
>
> 1. *Port facility construction or expansion, Section 30233(a)(1).*
> 2. *Energy facility construction or expansion, Section 30233(a)(1).*
> 3. *Coastal-dependent industrial facilities such as commercial fishing facilities, construction or expansion, Section 30233(a)(1).*

4. *Maintenance or restoration of dredged depths or previously dredged depths in: navigational channels, turning basins, vessel berthing and mooring areas, and associated with boat launching ramps.*

5. *In wetland areas, only entrance channels for new or expanded boating facilities may be constructed, except that in a degraded wetland, other boating facilities may be permitted under special circumstances, Section 30233(a)(3). New or expanded boating facilities may be permitted in estuaries, Section 30233(a)(4).*

6. *Incidental public services purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*

7. *Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*

8. *Nature study purposes and salmon restoration projects.*

9. *Aquaculture, or similar resource dependent activities excluding ocean ranching. (See Glossary)*

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

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

> *(A) Development or activities within wetland and estuary areas shall be limited to the following:*
>
> > *(1) Port facility expansion or construction.*
> >
> > *(2) Energy facility expansion or construction.*
> >
> > *(3) Coastal-dependent industrial facilities, such as commercial fishing facilities, expansion or construction.*
> >
> > *(4) Maintenance or restoration of dredged depths or previously dredged depths in navigation channels, turning basins, vessel berthing and mooring areas, and associated boat launching ramps.*
> >
> > *(5) In wetland areas, only entrance channels for new or expanded boating facilities may be constructed, except that, in a degraded wetland, other boating facilities may be permitted under special circumstances.*
> >
> > *(6) New or expanded boating facilities may be permitted in estuaries.*

(7) Incidental public service purposes which temporarily impact the resource including but not limited to burying cables and pipes, or inspection of piers, and maintenance of existing intake and outfall lines.

(8) Restoration projects which are allowable pursuant to Section 30233(a)(7) of the Coastal Act are publicly or privately financed projects in which restoration is the sole purpose of the project…

(9) Mineral extraction, including sand for restoring beaches, except in ESHA's.
(10) Nature study purposes and salmon restoration projects.

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

Mendocino County Land Use Plan (LUP) Policy 3.1-2 states the following (emphasis added):

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

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

LUP Policy 3.1-7 states the following (emphasis added):

A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from significant degradation resulting from future developments. The width of the buffer area shall be a minimum of 100 feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning Staff, that 100 feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the environmentally sensitive habitat areas and shall not be less than 50 feet in width. New land division shall not be allowed which will create new parcels

entirely within a buffer area. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent environmentally sensitive habitat area and must comply at a minimum with each of the following standards:

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

LUP Policy 3.1-18 states the following (emphasis added):

Public access to sensitive wildlife habitats such as rookeries or haulout areas shall be regulated, to insure that public access will not significantly adversely affect the sensitive resources being protected.

Development within buffer areas recommended by the California Department of Fish and Game to protect rare or endangered wildlife species and their nesting or breeding areas shall meet guidelines and management practices established by the Department of Fish and Game, and must be consistent with other applicable policies of this plan.

CZC Section 20.496.015 states, in applicable part, the following (emphasis added):

(A) Determining Extent of ESHA. *The Coastal Permit Administrator shall review, with the assistance of land use maps, all permit applications for coastal developments to determine whether the project has the potential to impact an ESHA. A project has the potential to impact an ESHA if:*

…

(2) The development is proposed to be located within an ESHA, according to an on-site investigation, or documented resource information; …

(3) The development is proposed to be located within one hundred (100) feet of an environmentally sensitive habitat and/or has potential to negatively impact the long-term maintenance of the habitat, as determined through the project review.

…

(D) Development Approval. *Such development shall only be approved if the following occurs:*

(1) All members of the site inspection team agree to the boundaries of the sensitive resource area; and

(2) Findings are made by the approving authority that the resource will not be significantly degraded by the development as set forth in Section 20.532.100(A)(1).

(E) Denial of Development. *If findings cannot be made pursuant to Section 20.532.100(A)(1), the development shall be denied.*

CZC Section 20.532.100 states, in applicable part, the following (emphasis added):

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

(A) Resource Protection Impact Findings*.*

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

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

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

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

…

Section 20.496.020 of the CZC states, in applicable part, the following (emphasis added):

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

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

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

(a) Biological Significance of Adjacent Lands…

…

(b) Sensitivity of Species to Disturbance…

…

(c) Susceptibility of Parcel to Erosion…

…

(d) Use of Natural Topographic Features to Locate Development…

…

(e) Use of Existing Cultural Features to Locate Buffer Zones…

…

(f) Lot Configuration and Location of Existing Development…

…

(g) Type and Scale of Development Proposed…

…

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

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

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

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

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

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

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

(g) Where riparian vegetation is lost due to development, such vegetation shall be replaced at a minimum ratio of one to one (1:1) to restore the protective values of the buffer area.

(h) Aboveground structures shall allow peak surface water flows from a one hundred (100) year flood to pass with no significant impediment.

(i) Hydraulic capacity, subsurface flow patterns, biological diversity, and/or biological or hydrological processes, either terrestrial or aquatic, shall be protected.

(j) Priority for drainage conveyance from a development site shall be through the natural stream environment zones, if any exist, in the development area. In the drainage system design report or development plan, the capacity of natural stream environment zones to convey runoff from the completed development shall be evaluated and integrated with the drainage system whenever possible. No structure shall interrupt the flow of groundwater within a buffer strip. Foundations shall be situated with the long axis of interrupted impermeable vertical surfaces oriented parallel to the groundwater flow direction. Piers may be allowed on a case by case basis.

(k) If findings are made that the effects of developing an ESHA buffer area may result in significant adverse impacts to the ESHA, mitigation measures will be required as a condition of project approval. Noise barriers, buffer areas in permanent open space, land dedication for erosion control, and wetland restoration, including off-site drainage improvements, may be required as mitigation measures for developments adjacent to environmentally sensitive habitats.

Appendix E
Grand Fir Forest ESHA

The Grand fir (*Abies grandis*) forest alliance consists predominantly of grand fir but can also include coast redwood (*Sequoia sempervirens*), Douglas-fir (*Pseudotsuga menziesii*), Bishop pine (*Pinus muricata*) and other conifers. Grand fir has a limited and scattered range in California, and can be found more widely in Oregon, Washington, Idaho, and British Columbia[21]. As described by Lanner (1999), grand fir occurs in coastal northwestern California "from the Oregon border south to about Humboldt Redwoods State Park in Humboldt County, then from about Westport south down the coast to Fort Ross, with an outlier across the Russian River on Willow Creek. According to Sawyer et al. (2009[22]), Grand fir can achieve heights up to 60m, and live 250-300 years with cone and seed production beginning at approximately 20 years. Grand fir occurs on exposed coastal headlands such as those in Mendocino County. It can also be found in river valleys, along streams, and at elevations up to 2,000 feet.

As background, the limited number of rare vegetation types that are listed in the CNDDB (referred to as "natural communities") are based on the Holland classification scheme, even though the science of vegetation classification has evolved and has been refined over the past two decades, and the Holland classification is no longer used as the state standard.

The currently accepted vegetation classification system for the state that is standardly used by CDFG, CNPS, and other state and federal agencies, organizations, and consultants for survey and planning purposes is *A Manual of California Vegetation* (MCV; Sawyer, Keeler-Wolf, and Evens 2009). Unlike Holland, this vegetation classification system is based on the standard National Vegetation Classification System (NVCS) and includes alliances (a floristically defined vegetation unit identified by its dominant and/or characteristic species) and associations (the finer level of classification beneath alliance). Although the CNDDB still maintains records of some of the old Holland vegetation types, these types are no longer the accepted standard, and the CDFG Vegetation Classification and Mapping Program (VegCAMP) has published more recent vegetation lists for the state (September 2003, October 2007, December 2009, September 2010) based on a standardized vegetation classification system that is currently being developed for California (and which is consistent with the MCV classification system). Although the rare vegetation types under the state's new vegetation classification system have not yet been added to the CNDDB to replace the old Holland types (but eventually are planned to be), global and state rarity rankings have been assigned for various types on the recent VegCAMP lists.

Instead of the previous "Sitka Spruce-Grand Fir Forest" type recognized by Holland, there is now a Grand Fir forest alliance. Unlike the G1/S1.1 ranking of the original Holland classification scheme (which is still maintained in the CNDDB until field reconnaissance can confirm the status of these communities using current classification standards) the currently accepted Grand

[21] Lanner, Ronald M. 1999. Conifers of California. Los Olivos, CA: Cachuma Press. 274 p.
[22] Sawyer et al. 2009. A Manual of California Vegetation, Second Edition. California Native Plant Society, Sacramento. 1300 pp.

Fir Forest alliance vegetation type is ranked G4/S2.1[23]. This ranking is considered "uncommon but not rare" at the global level, but imperiled and seriously endangered at the state level. Additionally CDFG Biogeographic Data Branch indicates that for alliances with State ranks of S1-S3, all associations within them are also considered to be highly imperiled[24] and of high priority for inventory in the CNDDB (VegCAMP 2010).

ESHA, as defined in Section 30107.5 of the Coastal Act, Section 3.1 of the certified Mendocino County LUP, and CZC Section 20.308.040(F) is *"…any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities."* Thus, Coastal Act Section 30107.5, LUP Section 3.1, and CZC Section 20.308.040(F) set up a two part test for determining an ESHA. The first part is determining whether an area includes plants or animals or their habitats that are either: (a) rare; or (b) especially valuable because of their special nature or role in an ecosystem. If so, then the second part asks whether such plants, animals, or habitats could be easily disturbed or degraded by human activities. If so, then the area where such plants, animals, or habitats are located is deemed ESHA by Section 30107.5, LUP Section 3.1, and CZC Section 20.308.040(F).

The first test for determining ESHA under Section 30107.5, LUP Section 3.1, and CZC Section 20.308.040(F) is whether an **area** including plants or animals or their habitats **is either (a) rare, or (b) especially valuable because of its special nature or role in an ecosystem**. The CA Department of Fish and Game recognizes special status natural communities as communities that are of limited distribution statewide or within a county or region and are often vulnerable to environmental effects of projects[25]. These communities may or may not contain special status species or their habitat. As described above, the CA Department of Fish and Game *List of California Terrestrial Natural Communities*[26] ranks Grand Fir forest community type as "G4S2.1," meaning it is "uncommon but not rare" at the global level, but imperiled and seriously endangered at the state level, and of high priority for inventory in the CNDDB. Because of its relative rarity at the state level, Grand Fir forest meets the rarity test for designation as ESHA under the above cited Coastal Act and LCP policies.

The second test for determining ESHA under Coastal Act Section 30107.5 (Section 3.1 of the certified LUP) is whether the habitat could be easily disturbed or degraded by human activities and developments. As described in *A Manual of California Vegetation,* "Infrequent in California, the alliance is limited to the north coastal strip, where logging has removed virtually all old-growth stands. The few inventoried stands in Mendocino and Humboldt Cos. are generally less

[23] In this case, the California Heritage (CNDDB) ranking of G4/S2.1 describes the global rank (G rank) as "Apparently Secure—Uncommon but not rare; some cause for long-term concern due to declines or other factors." The state rank (S rank) for Grand Fir forest in California indicates this community is "Imperiled—Imperiled in the state because of rarity due to very restricted range, very few populations (often 20 or fewer), steep declines, or other factors making it very vulnerable to extirpation from the nation or state/province." The -.1 extension depicts the threat to this community as "seriously endangered in California."

[24] http://dfg.ca.gov/biogeodata/vegcamp/natural_comm_background.asp (accessed December 14, 2011)

[25] Department of Fish and Game. November 24, 2009. *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities.* Available online at http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/Protocols_for_Surveying_and_Evaluating_Impacts.pdf

[26] http://www.dfg.ca.gov/biogeodata/vegcamp/pdfs/natcomlist.pdf. The rare natural communities are asterisked on this list.

than 20 ha in size."[27] Sawyer additionally notes that "Several recent housing developments have caused impacts on stands in Mendocino Co. This is a rare forest alliance in California." If development is not sited outside of ESHA and ESHA buffer, the Grand fir forest on the subject property could be easily disturbed or degraded by human activities and developments such as those that would be necessary to develop the identified building site including grading, paving, building construction, foot trampling, mowing etc. Additionally, the site is located in a designated moderate fire hazard area; California law (PRC 4291) requires property owners and/or occupants to create 100 feet of defensible space around homes and buildings, which could result in additional impacts to Grand fir forest if developments are not sited outside of ESHA and ESHA buffer. Such activities reduce habitat size, increase opportunities for establishment of nonnative and invasive species, and degrade and alter habitat quality and conditions that are integral to the "special nature" of the existing habitat area. Given these threats, the Grand Fir forest meets the second test for determining ESHA under Section 30107.5 of the Coastal Act, LUP Section 3.1, and CZC Section 20.308.040(F).

[27] A Manual of California Vegetation, Second Edition. California Native Plant Society, Sacramento. 1300 pp.

Appendix F
Wetland Delineation

The most specific definition of LCP and Coastal Act wetlands is found in Section 13577 of the California Code of Regulations, which defines wetland[28] as *"…land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent…."* Therefore, in order to qualify as a wetland in the Coastal Zone, land must be at least periodically inundated or saturated for sufficient duration to result in a predominance of hydrophytes or a predominance of hydric soils. There is no specific periodicity or duration of inundation or saturation required. The primacy of hydrology is implicit in the definition, but is presumed adequate if either hydrophytic cover or hydric soils are predominant. However, neither the definitions of hydrophytes or hydric soils nor field methods for their identification are provided in California law. In practice, delineators primarily rely on the definitions and technical guidelines developed by the Army Corps of Engineers.[29] Several other technical publications also provide useful guidance.[30]

Consulting biologist Bill Maslach delineated Coastal Commission-jurisdictional wetlands at the site on June 18, 2007 using the 1987 ACOE guidelines. The delineation included three wetland sample pits. Two of the sample points yielded three-factor (vegetation, soils, and hydrology) wetland determinations, and the third point (Sample Pit #2) was sampled in adjacent upland. As described above, biological consultant Playalina Nelson subsequently submitted a biological addendum to the County on June 1, 2009 to address mitigation measures following the applicant's change in the project design that reduced direct wetland impacts from 10,100 square feet to 500 square feet. In the two-page addendum submitted by Ms. Nelson, she states, "Any feasible approach to the parcel will have to cross a Coastal Act wetland (no hydrology was documented at the wetland, only hydric soils and hydrophytic plants)." The June 2009 addendum did not include a map depicting sample points nor any data forms that substantiated this claim.

In response to the Commission's request for additional information needed regarding wetland impacts and mitigation for *de novo* review, the applicant submitted a Wetland Mitigation Plan (**Exhibit 13)** prepared by Ms. Nelson and dated August 2010. The plan indicates that a sample pit was dug within the 500-square-foot wetland area to be impacted because no sample points were previously collected in this area (sample points collected by Mr. Maslach were located north and south of the current proposed area of impact). Ms. Nelson concludes the impacted area is a Coastal Act wetland, consistent with the conclusion of the previous consulting biologist, albeit based upon an observation of fewer criteria.

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[28] The definition in the Regulations was adapted from Cowardin, L.M., V. Carter, F.C. Golet, and E.T. LaRue. 1979. *Classification of wetlands and deepwater habitats of the United States*. Office of Biological Services, U.S. Fish and Wildlife Service, Washington, D.C. The definitions of upland limits are identical to those of the Service.

[29] Environmental Laboratory. 1987. *Corps of Engineers wetlands delineation manual*. Technical Report Y-87-1, U.S. Army Engineer Waterways Experiment Stations, Vicksburg, Mississippi.

[30] Federal Interagency Committee for Wetland Delineation. 1989. *Federal manual for identifying and delineating jurisdictional wetlands*. Cooperative technical publication. U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, and USDA Soil Conservation Service, Washington, D.C.; National Research Council. 1995. *Wetlands: Characteristics and boundaries*. National Academy Press, Washington, D.C.; Tiner, R.W. 1999. *Wetland indicators. A guide to wetland identification, delineation, classification, and mapping*. Lewis Publishers, N.Y.

Appendix G
Mendocino County LCP Policies Regarding Agricultural Resources

Applicable LCP Provisions (Emphasis added)

LUP Policy 3.2-1 states:

> *All agricultural land use, as represented within the agriculturally designated boundaries on the land use maps, shall be designated AG 60 or RL 160 for the purpose of determining density.*
>
> *This will support continued coastal agriculture use. One housing unit will be allowed for each existing parcel. Additional dwellings for resident agricultural workers shall be considered as conditional uses, subject to the provisions of this plan.*

LUP Policy 3.2-4 states:

> *No permit shall be issued to convert prime land and/or land under Williamson Act to non-agricultural uses, unless all of the following criteria are met:*
>
> 1. *all agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable; and*
> 2. *agricultural use of the soils can not be successfully continued or renewed within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Section 30108 of the Coastal Act); and*
> 3. *clearly defined buffer areas are developed between agricultural and nonagricultural uses (see Policies 3.2-9, 3.2-12 and 3.2-13); and*
> 4. *the productivity of any adjacent agricultural lands is not diminished, including the ability of the land to sustain dry farming or animal grazing; and*
> 5. *public service and facility expansions and permitted uses do not impair agricultural viability, either through increased assessment costs or degraded air and water quality; and*
> 6. *in addition, for parcels adjacent to urban areas, the viability of agricultural uses is severely limited by conflicts with urban uses, and the conversion of land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.*

CZC Section 20.508.015 "General Criteria" of the Agricultural Resources Chapter states the following:

> *An owner of property within an agricultural district, either AG or RL, may request agricultural preserve status under a Williamson Act contract pursuant to Chapter 22.08 of the Mendocino County Code. No permit shall be issued to convert prime lands and/or land under Williamson Act contracts to non-agricultural uses, without complying with Chapter 22.08 of the Mendocino County Code and making supplemental findings pursuant to Section 20.532.100(B)(2) and making the finding that continued, renewed, or potential*

agricultural use of the property is not feasible based upon an economic feasibility evaluation prepared pursuant to Section 20.524.015(C)(3). (Ord. No. 3785 (part), adopted 1991)

LUP Policy 3.2-5 states:

All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.

Coastal Act Section 30250 states in applicable part the following:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

CZC Section 20.508.010 "Purpose" of the Agricultural Resources Chapter states the following:

The purpose of this Chapter is to insure that the maximum amount of agricultural land shall be maintained in agricultural production to assure the protection of the area's agricultural economy. All other lands suitable for agricultural use shall not be converted to non-agricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands. (Ord. No. 3785 (part), adopted 1991)

LUP Policy 3.2-9 states:

In order to minimize agricultural-residential conflicts, land divisions or site plans in a residential area shall not result in a residential structure being closer than 200 feet from a parcel designated for agricultural use unless there is no other feasible building site on the parcel.

CZC Section 20.508.020 "Buffer Areas" of the Agricultural Resources Chapter states the following:

Development adjacent to agriculturally designated parcels is subject to the following:

(A) Development Adjacent to Agriculturally Designated Parcels.

(1) No new dwellings in a residential area shall be located closer than two hundred (200) feet from an agriculturally designated parcel unless there is no other feasible building site on the parcel.

(2) New parcels shall not be created that would result in a dwelling within two hundred (200) feet of an agriculturally designated parcel.

LUP Policy 3.2-16 states the following:

All agricultural lands designated AG or RL shall not be divided nor converted to non-agricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or (3) concentrate development consistent with Section 30250. Any such permitted division or conversion shall be compatible with continued agricultural use of surrounding parcels.

"Feasible", as used in this policy, includes the necessity for consideration of an economic feasibility evaluation containing both the following elements:

1. *An analysis of the gross revenue from the agricultural products grown in the area for the five years immediately preceding the date of the filing of proposed local coastal program or an amendment to any local coastal program.*
2. *An analysis of the operational expenses beyond the control of the owner/operator associated with the production of the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program.*

For purposes of this policy, "area" means a geographic area of sufficient size to provide an accurate evaluation of the economic feasibility of agricultural uses for those lands included in the local coastal plan.

CZC Chapter 20.368 "Rangelands District" describes the intent of the zoning district and includes certain allowable use types as follows:

***Sec. 20.368.005 Intent**. This district is intended to encompass lands within the Coastal Zone which are suited for and are appropriately retained for the grazing of livestock and which may also contain some timber producing areas. (Ord. No. 3785 (part), adopted 1991)*

Sec. 20.368.010 Principal Permitted Uses for RL Districts.

The following use types are permitted in the Range Lands District:

(A) Coastal Residential Use Types.

Family Residential: Single-Family;

Vacation Home Rental.

(B) Coastal Agricultural Use Types.

General Agriculture;

Light Agriculture;

Row and Field Crops;

Tree Crops.

(C) Coastal Open Space Use Types.

Passive Recreation.

(D) Coastal Natural Resource Use Types.

Fish and Wildlife Habitat Management. (Ord. No. 3785 (part), adopted 1991)

Sec. 20.368.015 Conditional Uses for RL Districts.

The following are permitted uses upon the issuance of a coastal development use permit:

(A) Coastal Residential Use Types.

Family Residential: Dwelling Groups;

Family Residential: Cluster Development;

Farm Employee Housing;

Farm Labor Housing.

(B) Coastal Civic Use Types.

Alternative Energy Facilities: On-site;

Alternative Energy Facilities: Off-site;

Community Recreation;

Major Impact Utilities;

Minor Impact Utilities.

(C) Coastal Commercial Use Types.

Animal Sales and Services: Auctioning;

Animal Sales and Services: Horse Stables;

Animal Sales and Services: Kennels;

Animal Sales and Services: Veterinary (Large Animals);

Commercial Recreation: Outdoor Sports and Recreation;

Cottage Industries.

(D) Coastal Agricultural Use Types.

Animal Waste Processing;

Forest Production and Processing: Commercial Woodlots;

Forest Production and Processing: Limited;

Horticulture;

Packing and Processing: General;

Packing and Processing: Fisheries Byproducts.

(E) Coastal Open Space Use Types.

Active Recreation.

(F) Coastal Extractive Use Types.

Mining and Processing;

Onshore Oil and Gas Development Facilities.

(G) Coastal Natural Resource Use Types.

Watershed Management. (Ord. No. 3785 (part), adopted 1991)

Sec. 20.368.020 Minimum Lot Area for RL Districts.

One hundred sixty (160) acres. (Ord. No. 3785 (part), adopted 1991)

Sec. 20.368.025 Maximum Dwelling Density for RL Districts.

One (1) unit per one hundred sixty (160) acres except as provided pursuant to Section 20.316.020 (Farm Employee Housing), Section 20.316.025 (Farm Labor Housing), Section 20.456.015 (Accessory Uses), Section 20.460.035 (Use of a Trailer Coach) and Section 20.460.040 (Family Care Unit). In no case shall there be more than four (4) dwellings per parcel whether single family residential, farm employee housing, farm labor housing, accessory living unit or family care unit, except where Chapter 20.412 "Clustering Development Combining District" applies. (Ord. No. 3785 (part), adopted 1991)

Sec. 20.368.030 Minimum Front, Rear and Side Yards for RL Districts.

Fifty (50) feet each. (Ord. No. 3785 (part), adopted 1991)

Sec. 20.368.035 Setback Exception.

Any nonconforming parcel which is less than five (5) acres shall observe a minimum front, side and rear yard of twenty (20) feet. (Ord. No. 3785 (part), adopted 1991)

Sec. 20.368.040 Building Height Limit for RL Districts.

Twenty-eight (28) feet above natural grade for non-Highly Scenic Areas and for Highly Scenic Areas east of Highway One. Eighteen (18) feet above natural grade for Highly Scenic Areas west of Highway One unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. Thirty-five (35) feet above natural grade for uninhabited accessory structures not in an area designated as a Highly Scenic Area (See Section 20.504.015(C)(2)). (Ord. No. 3785 (part), adopted 1991)

Sec. 20.368.045 Maximum Lot Coverage for RL Districts.

Twenty (20) percent for parcels less than two (2) acres in size. Fifteen (15) percent for parcels from two (2) acres to five (5) acres in size. Ten (10) percent for parcels over five (5) acres in size. (Ord. No. 3785 (part), adopted 1991)

CZC Section 20.456.015 "Residential and Agricultural Use Types" specifies the accessory buildings and uses permissible in the district, as follows (emphasis added)

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

(A) Private Garages.

(B) Children's playhouse, patios, porches, gazebos, etc.

(C) Windmills.

(D) Shops (non-business purposes).

(E) Barns.

(F) Private swimming pools and hot tubs (not subject to setback requirements in the side or rear yards of any district).

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

…

(J) Travel Trailer or Camper. The maintaining of one (1) travel trailer or camper in dead storage where it is not used for occupancy or business purposes. All stored travel trailers or campers in excess of one (1) shall be stored out of sight from a public right-of-way. The connection, for any continuous period exceeding forty-eight (48) hours, of any utility or service such as electrical, water, gas or sewage to the travel trailer or camper shall be prima facie evidence that it is being used for habitation or business purposes.

…

(O) Other Necessary and Customary Uses. Accessory non-residential uses and nonresidential structures, in addition to those identified above, which are necessarily and customarily associated with, and are appropriate, incidental, and subordinate to a principal permitted use, as determined by the Director of Planning and Building Services. (Ord. No. 3785 (part), adopted 1991)

Coastal Zoning Code (CZC) Section 20.532.095 "Required Findings for All Coastal Development Permits" states:

(A) The granting or modification of any coastal development permit by the approving authority shall be supported by findings which establish that:

(1) The proposed development is in conformity with the certified local coastal program; and

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

(3) The proposed development is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of this Division and preserves the integrity of the zoning district; and

(4) The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

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

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

…

Coastal Zoning Code (CZC) Section 20.532.100 "Supplemental Findings" states in applicable part the following:

> *In addition to required findings, the approving authority may approve or conditionally approve an application for a permit or variance within the Coastal Zone only if the following findings, as applicable, are made:*
>
> ***(A) Resource Protection Impact Findings.***
>
> ***(1) Development in Environmentally Sensitive Habitat Areas.***
>
> **…**
>
> ***(2) Impact Finding For Resource Lands Designated AG, RL and FL.*** *No permit shall be granted in these zoning districts until the following finding is made: (a) The proposed use is compatible with the long-term protection of resource lands.*
>
> **…**
>
> ***(B) Agricultural Land Impact Findings.***
>
> **…**
>
> ***(2) Impact Findings for Conversion of Prime Agricultural or Williamson Act Contracted Lands.*** *Conversion of prime land and/or land under Williamson Act Contract to non-agricultural uses is prohibited, unless all of the following findings are made. For the purposes of this section, conversion is defined as either development in an AG or RL designation not classified as a residential, agricultural, or natural resource use type or the amending and rezoning of the Coastal Element Land Use Designation AG or RL to a classification other than AG or RL including amendments to add visitor-serving facilities.*
>
> *(a) All agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable;*
>
> *(b) Agricultural use of the soils cannot be successfully continued or renewed within a reasonable period of time, taking into account economic, environmental, social and technological factors;*
>
> *(c) Clearly defined buffer areas are established between agricultural and non-agricultural uses;*
>
> *(d) The productivity of any adjacent agricultural lands will not be diminished, including the ability of the land to sustain dry farming or animal grazing;*
>
> *(e) Public service and facility expansions and permitted uses do not impair agricultural viability, either through increased assessment costs or degraded air and water quality; and*
>
> *(f) For parcels adjacent to urban areas, the viability of agricultural uses is severely limited by contacts with urban uses, and the conversion of land*

would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.

(3) Impact Findings for Conversion of Non-prime Agricultural Lands. *Conversion of all other agricultural lands to non-agricultural uses will be prohibited unless it is found that such development will be compatible with continued agricultural use of surrounding lands and at least one of the following findings applies:*

(a) Continued or renewed agricultural use is not feasible as demonstrated by an economic feasibility evaluation prepared pursuant to Section 20.524.015(C)(3);

(b) Such development would result in protecting prime agricultural land and/or concentrate development.

(a) Continued or renewed agricultural use is not feasible as demonstrated by an economic feasibility evaluation prepared pursuant to Section 20.524.015(C)(3);

(b) Such development would result in protecting prime agricultural land and/or concentrate development.

Coastal Zoning Code (CZO) Section 20.524.015(C)(3) states:

(3) An economic feasibility evaluation prepared by a land use economist with expertise in the economics of agriculture which shall contain the following:

(a) An analysis of the gross revenue from the agricultural products grown in the area for the five (5) years immediately preceding the date of the filing of proposed conversion and/or division; and

(b) An analysis of the operational expenses beyond the control of the owner/operator associated with the production of the agricultural products grown in the area for five years immediately preceding the date of the filing of the proposed conversion and/or division.

…

Appendix H
Mendocino County LCP Policies Regarding Geologic Hazards

LUP Policy 3.4-1 states:

> *The County shall review all applications for Coastal Development permits to determine threats from and impacts on geologic hazards arising from seismic events, tsunami runup, landslides, beach erosion, expansive soils and subsidence and shall require appropriate mitigation measures to minimize such threats. In areas of known or potential geologic hazards, such as shoreline and bluff top lots and areas delineated on the hazards maps the County shall require a geologic investigation and report, prior to development, to be prepared by a licensed engineering geologist or registered civil engineer with expertise in soils analysis to determine if mitigation measures could stabilize the site. Where mitigation measures are determined to be necessary, by the geologist, or registered civil engineer the County shall require that the foundation construction and earthwork be supervised and certified by a licensed engineering geologist, or a registered civil engineer with soil analysis expertise to ensure that the mitigation measures are properly incorporated into the development.*

LUP Policy 3.4-7 states:

> *The County shall require that new structures be set back a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (75 years). Setbacks shall be of sufficient distance to eliminate the need for shoreline protective works. Adequate setback distances will be determined from information derived from the required geologic investigation and from the following setback formula:*
>
> *Setback (meters) = Structure life (years) x Retreat rate (meters/year)*
>
> *The retreat rate shall be determined from historical observation (e.g., aerial photographs) and/or from a complete geotechnical investigation.*
>
> *All grading specifications and techniques will follow the recommendations cited in the Uniform Building Code or the engineering geologists report.*

LUP Policy 3.4-8 states:

> *Property owners should maintain drought-tolerant vegetation within the required blufftop setback. The County shall permit grading necessary to establish proper drainage or to install landscaping and minor improvements in the blufftop setback.*

LUP Policy 3.4-9 states:

> *Any development landward of the blufftop setback shall be constructed so as to ensure that surface and subsurface drainage does not contribute to the erosion of the bluff face or to the instability of the bluff itself.*

LUP Policy 3.4-10 states the following (emphasis added):

> *No development shall be permitted on the bluff face because of the fragility of this environment and the potential for resultant increase in bluff and beach erosion due to poorly-sited development. However, where they would substantially further the public welfare, developments such as staircase accessways to beaches or pipelines to serve coastal-dependent industry may be allowed as conditional uses, following a full environmental, geologic and engineering review and upon the determinations that no feasible less environmentally damaging alternative is available and that feasible mitigation measures have been provided to minimize all adverse environmental effects.*

LUP Policy 3.4-12 states the following (emphasis added):

> *Seawalls, breakwaters, revetments, groins, harbor channels and other structures altering natural shoreline processes or retaining walls shall not be permitted unless judged necessary for the protection of existing development or public beaches or coastal dependent uses. Allowed developments shall be processed as conditional uses, following full environmental geologic and engineering review. This review shall include site-specific information pertaining to seasonal storms, tidal surges, tsunami runups, littoral drift, sand accretion and beach and bluff face erosion. In each case, a determination shall be made that no feasible less environmentally damaging alternative is available and that the structure has been designed to eliminate or mitigate adverse impacts upon local shoreline sand supply and to minimize other adverse environmental effects. The design and construction of allowed protective structures shall respect natural landforms, shall provide for lateral beach access, and shall minimize visual impacts through all available means.*

Mendocino County Coastal Zoning Code (CZC) Section 20.500.010 states the following (emphasis added):

> *(A) The purpose of this section is to insure that development in Mendocino County's Coastal Zone shall:*
>
> > *(1) Minimize risk to life and property in areas of high geologic, flood and fire hazard;*
> >
> > *(2) Assure structural integrity and stability; and*
> >
> > *(3) Neither create nor contribute significantly to erosion, geologic instability or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.* (Ord. No. 3785 (part), adopted 1991)

Section 20.500.015 of the Coastal Zoning Code states:

> ***(A) Determination of Hazard Areas.***
>
> > ***(1) Preliminary Investigation.*** *The Coastal Permit Administrator shall review all applications for Coastal Development Permits to determine threats from and impacts on geologic hazards.*
> >
> > ***(2) Geologic Investigation and Report.*** *In areas of known or potential geologic hazards such as shoreline and blufftop lots and areas delineated on the hazard maps, a geologic investigation and report, prior to development approval, shall be required. The report shall be prepared by a licensed engineering geologist or registered civil engineer pursuant to the site investigation requirements in Chapter 20.532.*
>
> ***(B) Mitigation Required.*** *Where mitigation measures are determined to be necessary, the foundation, construction and earthwork shall be supervised and certified by a licensed engineering geologist or a registered civil engineer with soil analysis expertise who shall certify that the required mitigation measures are incorporated into the development. (Ord. No. 3785 (part), adopted 1991)*

Sec. 20.500.020, "Geologic Hazards - Siting and Land Use Restrictions," states in applicable part (emphasis added):

> ***(A) Faults.***
>
> > *(1) Residential, commercial and industrial structures shall be sited a minimum of fifty (50) feet from a potentially, currently or historically active fault. Greater setbacks shall be required if warranted by geologic conditions.*
> >
> > *(2) Water, sewer, electrical and other transmission and distribution lines which cross fault lines shall be subject to additional standards for safety including emergency shutoff valves, liners, trenches and the like. Specific safety measures shall be prescribed by a licensed engineering geologist or a registered civil engineer.*
>
> ***(B) Bluffs.***
>
> > *(1) New structures shall be setback a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (seventy-five (75) years). New development shall be setback from the edge of bluffs a distance determined from information derived from the required geologic investigation and the setback formula as follows:*
> >
> > *Setback (meters) = structure life (75 years) x retreat rate (meters/year)*
> >
> > *Note: The retreat rate shall be determined from historical observation (aerial photos) and/or from a complete geotechnical investigation.*
> > *(2) Drought tolerant vegetation shall be required within the blufftop setback.*
> > *(3) Construction landward of the setback shall not contribute to erosion of the bluff face or to instability of the bluff.*

(D) Landslides.

(1) New development shall avoid, where feasible, existing and prehistoric landslides. Development in areas where landslides cannot be avoided shall also provide for stabilization measures such as retaining walls, drainage improvements and the like. These measures shall only be allowed following a full environmental, geologic and engineering review pursuant to Chapter 20.532 and upon a finding that no feasible, less environmentally damaging alternative is available.

(E) Erosion.

(1) Seawalls, breakwaters, revetments, groins, harbor channels and other structures altering natural shoreline processes or retaining walls shall not be permitted unless judged necessary for the protection of existing development, public beaches or coastal dependent uses. Environmental geologic and engineering review shall include site-specific information pertaining to seasonal storms, tidal surges, tsunami runups, littoral drift, sand accretion and beach and bluff face erosion. In each case, a determination shall be made that no feasible less environmentally damaging alternative is available and that the structure has been designed to eliminate or mitigate adverse impacts upon local shoreline sand supply and to minimize other significant adverse environmental effects.

Appendix I
Mendocino County LCP Policies Regarding Visual Resources

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

…

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

Policy 3.5-3 of the certified LUP states as follows, in applicable part (emphasis added):

The visual resource areas listed below are those which have been identified on the land use maps and shall be designated as "highly scenic areas," within which new development shall be subordinate to the character of its setting. Any development permitted in these areas shall provide for the protection of ocean and coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes.

…

- *Portions of the coastal zone within the Highly Scenic Area west of Highway 1 between the Ten Mile River estuary south to the Navarro River as mapped with noted exceptions and inclusions of certain areas east of Highway 1.*

In addition to other visual policy requirements, new development west of Highway One in designated "highly scenic areas" is limited to one-story (above natural grade) unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. Variances from this standard may be allowed for planned unit development that provides clustering and other forms of meaningful visual mitigation. New development should be subordinate to natural setting and minimize reflective surfaces. All proposed divisions of land and boundary line adjustments within "highly scenic areas" will be analyzed for consistency of potential future development with visual resource policies and shall not be allowed if development of resulting parcel(s) could not be consistent with visual policies.

CZC Section 20.504.020 states, in applicable part, as follows (emphasis added):

…

(D) The scenic and visual qualities of Mendocino County Coastal Areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal

areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas designated by the County of Mendocino Coastal Element shall be subordinate to the character of its setting. (Ord. No. 3785 (part), adopted 1991)

LUP Policy 3.5-4 states the following (emphasis added):

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

...

Minimize visual impacts of development on terraces by (1) avoiding development in large open areas if alternative site exists; (2) minimize the number of structures and cluster them near existing vegetation, natural landforms or artificial berms; (3) provide bluff setbacks for development adjacent to or near public areas along the shoreline; (4) design development to be in scale with rural character of the area...

LUP Policy 3.5-5 states as follows, in applicable part (emphasis added):

Providing that trees will not block coastal views from public areas such as roads, parks and trails, tree planting to screen buildings shall be encouraged. In specific areas, identified and adopted on the land use plan maps, trees currently blocking views to and along the coast shall be required to be removed or thinned as a condition of new development in those specific areas. New development shall not allow trees to block ocean views.

…

LUP Policy 3.5-8 states as follows (emphasis added):

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

Section 20.504.015 ("Highly Scenic Areas") of the certified Coastal Zoning Code (CZC) states as follows, in applicable part (emphasis added):

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

…

(2) Portions of the Coastal Zone within the Highly Scenic Area west of Highway 1 between the Ten Mile River estuary south to the Navarro River as mapped with noted exceptions and inclusion of certain areas east of Highway 1…

(C) Development Criteria.

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

…

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

…

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

(a) Near the toe of a slope;

(b) Below rather than on a ridge; and

(c) In or near a wooded area.

…

(7) Minimize visual impacts of development on terraces by the following criteria:

(a) Avoiding development, other than farm buildings, in large open areas if alternative site exists;

(b) Minimize the number of structures and cluster them near existing vegetation, natural landforms or artificial berms;

(c) Provide bluff setbacks for development adjacent to or near public areas along the shoreline;

(d) Design development to be in scale with rural character of the area.

…

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

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

(13) Access roads and driveways shall be sited such that they cause minimum visual disturbance and shall not directly access Highway 1 where an alternate configuration is feasible. (Ord. No. 3785 (part), adopted 1991).

LUP Policy 3.5-15 states in applicable part (emphasis added):

Installation of satellite receiving dishes shall require a coastal permit. In highly scenic areas, dishes shall be located so as to minimize visual impacts. Security lighting and floodlighting for occasional and/or emergency use shall be permitted in all areas. Minor additions to existing nightlighting for safety purposes shall be exempt from a coastal permit. In any event no lights shall be installed so that they distract motorists and they

shall be shielded so that they do not shine or glare beyond the limits of the parcel wherever possible.

CZC Section 20.504.035 ("Exterior Lighting Restrictions") states as follows, in applicable part (emphasis added):

(A) Essential criteria for the development of night lighting for any purpose shall take into consideration the impact of light intrusion upon the sparsely developed region of the highly scenic coastal zone.
(1) No light or light standard shall be erected in a manner that exceeds either the height limit designated in this Division for the zoning district in which the light is located or the height of the closest building on the subject property whichever is the lesser.
(2) Where possible, all lights, whether installed for security, safety or landscape design purposes, shall be shielded or shall be positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the parcel on which it is placed.
(3) Security lighting and flood lighting for occasional and/or emergency use shall be permitted in all areas.
(4) Minor additions to existing night lighting for safety purposes shall be exempt from a coastal development permit.
(5) No lights shall be installed so that they distract motorists.

Appendix J
Mendocino County LCP Policies Regarding Stormwater Runoff

LUP Policy 3.1-25 states:

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

CZC Section 20.492.015 sets erosion control standards and states in part:

> *(A) The erosion rate shall not exceed the natural or existing level before development.*
>
> *(B) Existing vegetation shall be maintained on the construction site to the maximum extent feasible. Trees shall be protected from damage by proper grading techniques.*
>
> *(C) Areas of disturbed soil shall be reseeded and covered with vegetation as soon as possible after disturbance, but no less than one hundred (100) percent coverage in ninety (90) days after seeding; mulches may be used to cover ground areas temporarily. In environmentally sensitive habitat areas, the revegetation shall be achieved with native vegetation…*
>
> *(D) Mechanical or vegetative techniques to control erosion may be used where possible or necessary providing that they are fully discussed in the approved development plan.*
>
> *(E) To control erosion, development shall not be allowed on slopes over thirty (30) percent unless adequate evidence from a registered civil engineer or recognized authority is given that no increase in erosion will occur…* [Emphases added]

CZC Section 20.492.020 sets sedimentation standards and states in part:

> *A.* *Sediment basins (e.g., debris basins, desilting basins, or silt traps) shall be installed in conjunction with initial grading operations and maintained through the development/construction process to remove sediment from runoff wastes that may drain from land undergoing development to environmentally sensitive areas.*
>
> *B.* *To prevent sedimentation of off-site areas, vegetation shall be maintained to the maximum extent possible on the development site. Where necessarily removed during construction, native vegetation shall be replanted to help control sedimentation.*
>
> *C.* *Temporary mechanical means of controlling sedimentation, such as hay baling or temporary berms around the site, may be used as part of an overall grading plan, subject to the approval of the Coastal Permit Administrator.*
>
> *D.* *Design of sedimentation control devices shall be coordinated with runoff control structure to provide the most protection.* [Emphasis added.]

CZC Section 20.492.025 sets runoff standards and states in applicable part:

> *(A) Water flows in excess of natural flows resulting from project development shall be mitigated…*
>
> *(C) The acceptability of alternative methods of storm water retention shall be based on appropriate engineering studies. Control methods to regulate the rate of storm water discharge that may be acceptable include retention of water on level surfaces, the use of grass areas, underground storage, and oversized storm drains with restricted outlets or energy disapators* [sic].
>
> *(D) Retention facilities and drainage structures shall, where possible, use natural topography and natural vegetation. In other situations, planted trees and vegetation such as shrubs and permanent ground cover shall be maintained by the owner.*
>
> *(E) Provisions shall be made to infiltrate and/or safely conduct surface water to storm drains or suitable watercourses and to prevent surface runoff from damaging faces of cut and fill slopes…* [Emphasis added]

Appendix K
Information Regarding House Sizes in Surrounding Area

Size of Residential Developments Near Agricultural Lands

Commission staff reviewed available records of surrounding land use and development on both agricultural lands (Range Lands designation) and residential lands (Rural Residential designation) in the vicinity of the proposed development. Twenty-three contiguous parcels, located east of Highway One and including the subject parcel, are similarly-designated agricultural lands and range in size from less than one acre to 120 acres. These parcels collectively comprise slightly less than 700 contiguous acres of agricultural land. Details about current agricultural practices on the surrounding lands are limited. Many of the parcels were once held in common ownership but have since been transferred to various trustees, and some have subsequently been sold. Many of the surrounding parcels are held in common contiguous ownership by just a handful of owners. For example, of the 23 contiguous agricultural parcels, 12 parcels that share the same ownership and comprise approximately 364 acres (52% of total agricultural lands) occur adjacent to the subject parcel, of which some are actively leased to a cattle rancher for grazing. Slightly south of the subject parcel, another 3 parcels that comprise just over 100 acres (14% of total agricultural lands) are held by one ownership, and one of these 3 parcels (APN 123-360-07) holds Type II Agricultural Preserve designation. One parcel that totals approximately 120 acres (17% of total agricultural lands) forms the southernmost extent of agricultural lands in the Albion area. Thus, 83% of the agricultural lands in the Albion area are held by three owners, two of whom are known to actively manage at least a portion of the lands in continued agricultural production.

Detailed studies that evaluate surrounding home sizes and land values (such as the 2004 AFT report and the 2003 Strong Associates report) are not available for Mendocino County. Few records are available for comparison of surrounding developments. County permit history shows one 2,500-square-foot house plus 780-square-foot garage plus barn and personal horse arena authorized on three contiguous Range Lands-designated parcels (APNs 123-180-02, 123-200-10, and 123-350-08) in 2008 and constructed in 2009, however there is no assessed value for improvements as of 2011 records. According to parcel data from County records accessed through RealQuest31 online subscription services, the most recent sales of agricultural-designated lands in the area is the applicant's 4.17-acre parcel, which the applicant purchased in 2005 for $500,000.

Several residential developments currently surround the agricultural lands on lands zoned for residential uses. Few records are available for comparison of these surrounding developments. Many of these parcels have no record of issuance of a coastal development permit and it is unclear how many of these developments predate the Coastal Act. West of Highway One, parcels are zoned for Rural Residential use at densities ranging from 1 acre minimum to 10 acre minimum parcel sizes. These lands include the Pacific Reefs subdivision located southwest of the subject parcel on the west side of Highway One and immediately south of Salmon Creek.

[31]CoreLogic Realquest subscription services for current parcel data accessed at www.RealQuest.com

The subdivision contains 41 parcels ranging in size from 1 to 3 acres. With the exception of parcels that extend to the bluff edge, most parcels within this subdivision are exempt from the requirement to obtain a coastal development permit for the construction of a single family dwelling under the terms of categorical exclusion orders issued by the Commission to the County, and therefore details regarding house size are limited. However, according to data accessed from Zillow Real Estate Network[32], three homes within this subdivision ranging in size from 2,446 square feet to 2,840 square feet (plus garages) on approximate 1-acre lots have sold between December 2010 and December 2011, with sale prices ranging from $699,000 to $915,000 (two of the homes were bluff-top ocean-front parcels). One bluff-top one-acre parcel with a 1,240-square-foot house (plus 264-square-foot garage) is currently for sale at $600,000. A handful of larger Rural Residential-zoned parcels occur to the northwest and southwest of the subject parcel. Two of these adjacent bluff-top parcels are currently for sale less than ½-mile from the subject parcel. These two adjacent undeveloped lots are currently advertised for sale with County-approved coastal development permits for $1,450,000 (12 acres) and $1,200,000 (11 acres).

According to RealQuest[33] parcel data, a three-acre bluff-top parcel located north of the Pacific Reefs subdivision and west of Highway One that contains a 2,183-square-foot home and 676-square-foot garage sold in 2004 for $750,000. East of Highway One and north of Albion Ridge Road, a 3,525-square-foot house with 472-square-foot garage on a 1-acre parcel sold in 2006 for $825,000, and a one-acre parcel with a 1,888-square-foot house and 576-square-foot garage approved in 2004 had a County-assessed value of $621,000 in 2011.

The available information thus shows the average house size in the surrounding area is 2,354 square feet, with a median house size of 2,315 square feet.

[32] Accessed July 2012 at http://www.zillow.com/homes/for_sale/Albion-CA/#/homes/for_sale/Albion-CA/8334_rid/39.217043,-123.747575,39.199419,-123.788002_rect/14_zm/1_rs/

[33] CoreLogic Realquest subscription services for current parcel data accessed at www.RealQuest.com

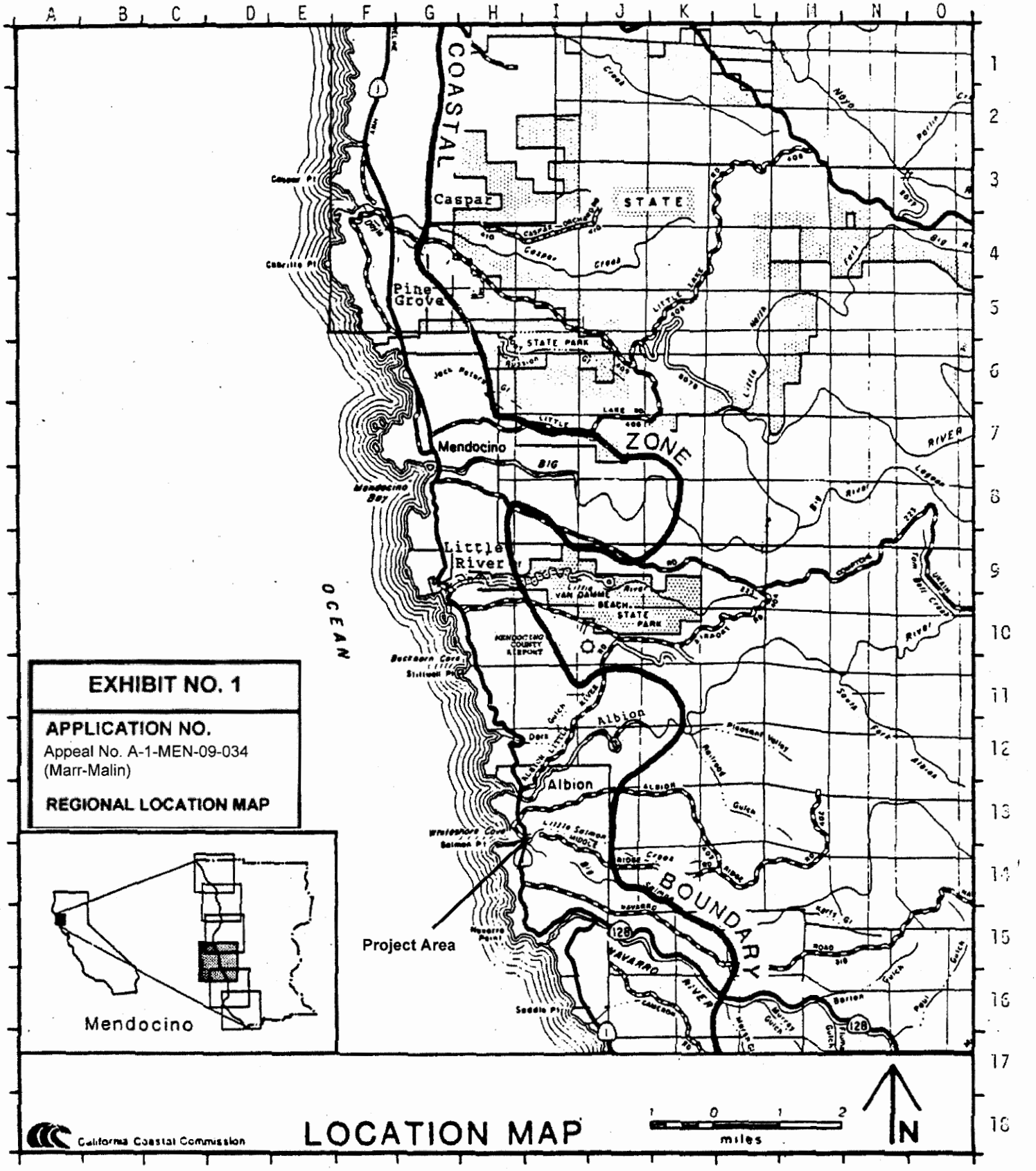


EXHIBIT NO. 1

APPLICATION NO.
Appeal No. A-1-MEN-09-034
(Marr-Malin)

REGIONAL LOCATION MAP

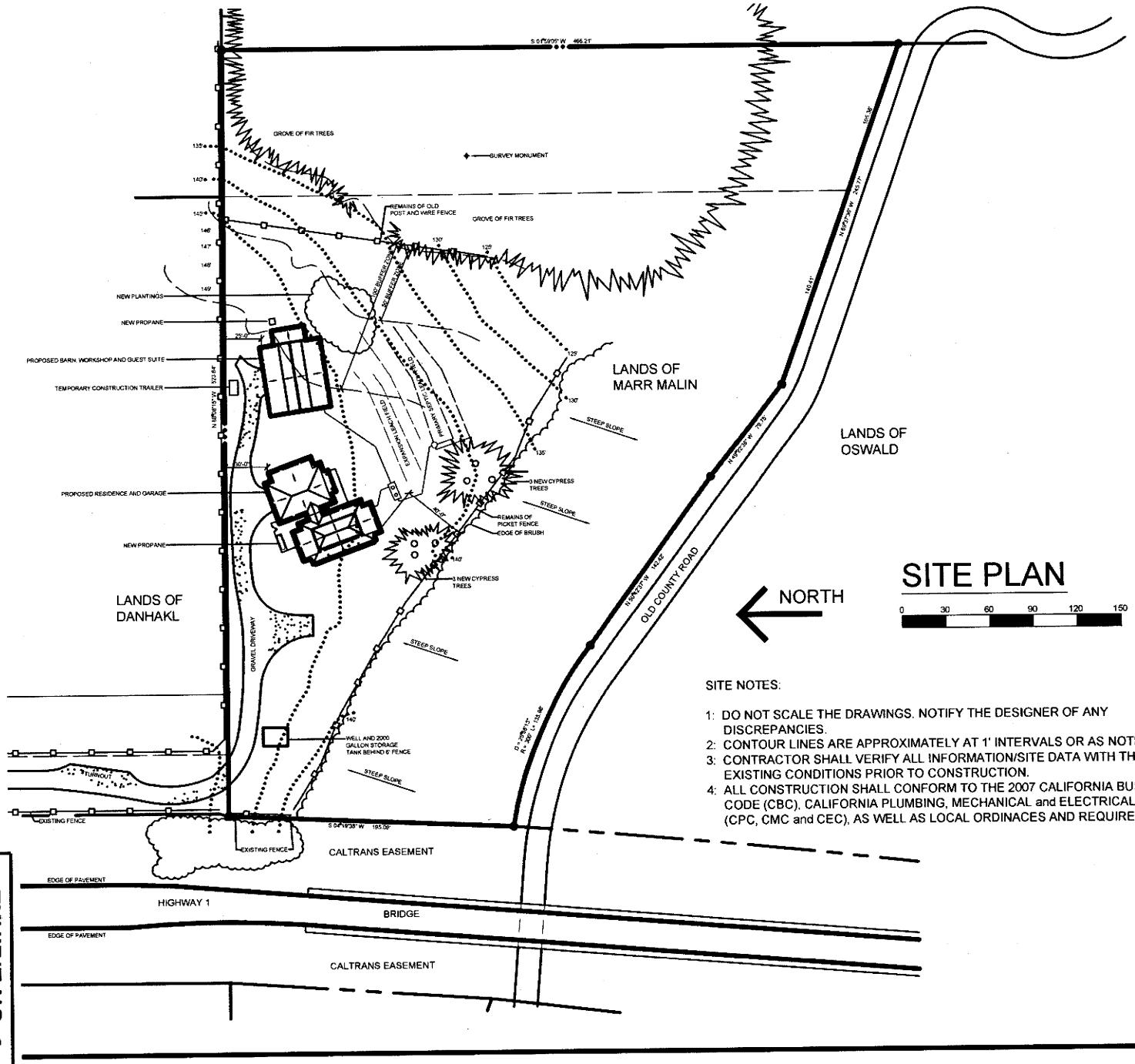
County of Mendocino

EXHIBIT NO. 2

APPEAL NO.

Appeal No. A-1-MEN-09-034
(Marr-Malin)

VICINITY MAP / AERIAL PHOTO



SITE NOTES:

1: DO NOT SCALE THE DRAWINGS. NOTIFY THE DESIGNER OF ANY DISCREPANCIES.
2: CONTOUR LINES ARE APPROXIMATELY AT 1' INTERVALS OR AS NOTED.
3: CONTRACTOR SHALL VERIFY ALL INFORMATION/SITE DATA WITH THE EXISTING CONDITIONS PRIOR TO CONSTRUCTION.
4: ALL CONSTRUCTION SHALL CONFORM TO THE 2007 CALIFORNIA BUILDING CODE (CBC), CALIFORNIA PLUMBING, MECHANICAL and ELECTRICAL CODES (CPC, CMC and CEC), AS WELL AS LOCAL ORDINACES AND REQUIREMENTS.

BOB HARTSTOCK, Building Designer
PO BOX 319
36455 TIMBER RIDGE RD
THE SEA RANCH, CA 95497

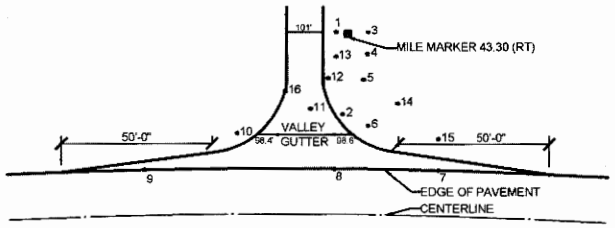
A RESIDENCE FOR:
MICHAEL MARR AND JUDITH MALIN
2800 North Highway One
ALBION, CA 95410

APN: 123-350-04
CDP: 57-2008
A-1-MEN-09-034

1/11/11

3
OF 12

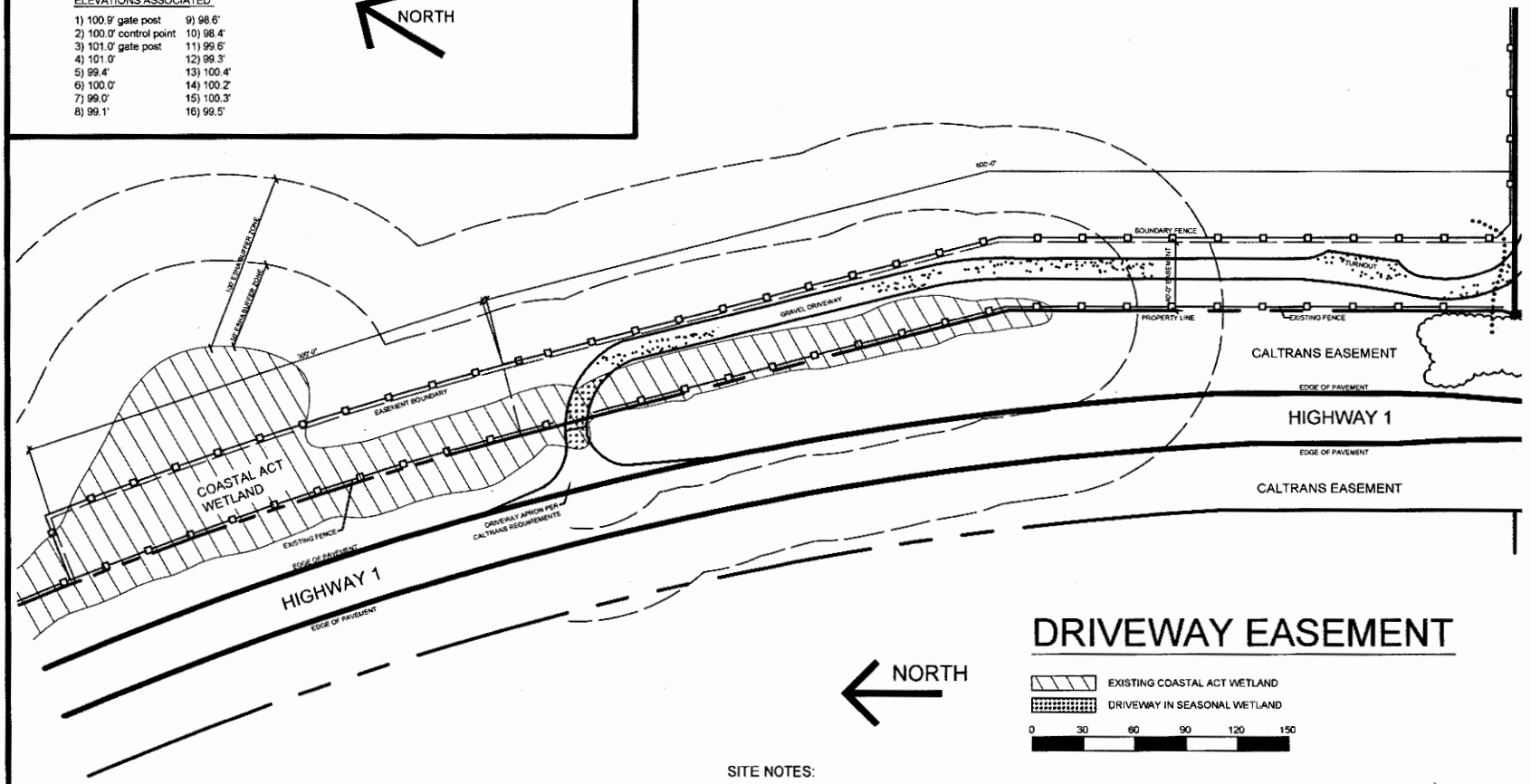
EXHIBIT NO. 3
Proposed Site Plans
Permit No.
A-1-MEN-09-034
(Marr-Malin)
1 of 2



ELEVATIONS ASSOCIATED

1) 100.9' gate post	9) 98.6'
2) 100.0' control point	10) 98.4'
3) 101.0' gate post	11) 99.6'
4) 101.0'	12) 99.3'
5) 99.4'	13) 100.4'
6) 100.0'	14) 100.2'
7) 99.0'	15) 100.3'
8) 99.1'	16) 99.5'

NORTH



DRIVEWAY EASEMENT

EXISTING COASTAL ACT WETLAND

DRIVEWAY IN SEASONAL WETLAND

0 30 60 90 120 150

SITE NOTES:

1: DO NOT SCALE THE DRAWINGS. NOTIFY THE DESIGNER OF ANY DISCREPANCIES.
2: CONTOUR LINES ARE APPROXIMATELY AT 1' INTERVALS OR AS NOTED.
3: CONTRACTOR SHALL VERIFY ALL INFORMATION/SITE DATA WITH THE EXISTING CONDITIONS PRIOR TO CONSTRUCTION.
4: ALL CONSTRUCTION SHALL CONFORM TO THE 2007 CALIFORNIA BUILDING CODE (CBC), CALIFORNIA PLUMBING, MECHANICAL and ELECTRICAL CODES (CPC, CMC and CEC), AS WELL AS LOCAL ORDINACES AND REQUIREMENTS.

BOB HARTSTOCK, Building Designer
PO BOX 319
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A RESIDENCE FOR:
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2800 North Highway One
ALBION, CA 95410

APN: 123-350-04
CDP: 57-2008
A-1-MEN-09-034

1/10/11

4
OF 12

(2 of 2)

BOB HARTSTOCK, Building Designer PO BOX 319 36455 TIMBER RIDGE RD THE SEA RANCH, CA 95497	A RESIDENCE FOR: MICHAEL MARR AND JUDITH MALIN 2800 North Highway One ALBION, CA 95410	APN: 123-350-04 CDP: 57-2008 A-1-MEN-09-034	1/10/11	8 OF 12

EXHIBIT NO. 4

Proposed Floor Plans
Permit No.
A-1-MEN-09-034
(Marr-Malin)
1 of 4

BOB HARTSTOCK, Building Designer PO BOX 319 36455 TIMBER RIDGE RD THE SEA RANCH, CA 95497	A RESIDENCE FOR: MICHAEL MARR AND JUDITH MALIN 2800 North Highway One ALBION, CA 95410	APN: 123-350-04 CDP: 57-2008 A-1-MEN-09-034	1/10/11	12 OF 12

	6/27/11	APN: 123-350-04 CDP: 57-2008 A-1-MEN-09-034	A RESIDENCE FOR: MICHAEL MARR AND JUDITH MALIN 2800 North Highway One ALBION, CA 95410

BOB HARTSTOCK, Building Designer
PO BOX 319
36455 TIMBER RIDGE RD
THE SEA RANCH, CA 95497

	APN: 123-350-04 CDP: 57-2008 A-1-MEN-09-034	A RESIDENCE FOR: MICHAEL MARR AND JUDITH MALIN 2800 North Highway One ALBION, CA 95410	BOB HARTSTOCK, Building Designer PO BOX 319 36455 TIMBER RIDGE RD THE SEA RANCH, CA 95497

6/27/11

BARN FLOOR PLAN

NORTH

0 2 6 10

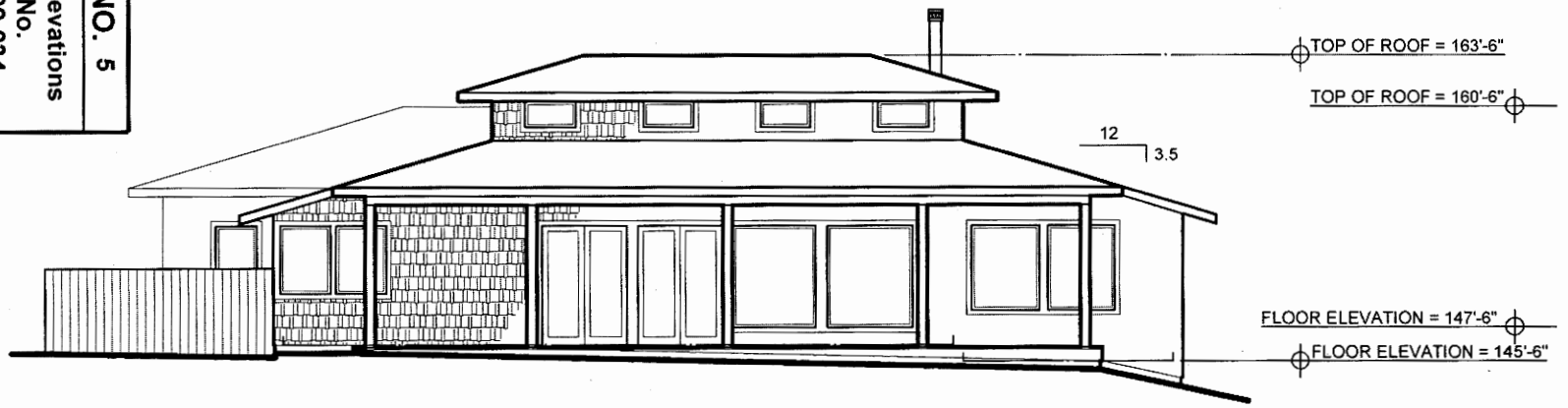
W = WOOD BOX ENCLOSURE AROUND DOWNCAST LIGHT

G = GOOSENECK DOWNCAST LIGHT

(EXTERIOR LIGHTING)

EXHIBIT NO. 5

Proposed Elevations
Permit No.
A-1-MEN-09-034
(Marr-Malin)
1 of 6



WEST ELEVATION

0 2 6 10

BUILDING 1
HOUSE
EXTERIOR BUILDING MATERIALS:

1) Siding shall be redwood shingles with a warm brown semi transparent stain, Sherwin Williams: Woodscapes, semi transparent stain, color charwood.
2) Roof Shingle shall be a Class "A" Fiberglas shingle, color black or charcoal grey.
3) Windows shall be Milgard, Bronze Anodized Aluminum with clear glass.
4) All metal shall be painted black/charcoal grey, except copper.

HOUSE

BUILDING SIZE:	RESIDENCE:	1,790 sqft
	GARAGE:	576 sqft
	COVERED PORCH:	353 sqft
	TOTAL BUILDING:	2,719 sqft

Building height above existing grade: 18'-6"
Building height above finish grade: 18'-6"

BOB HARTSTOCK, Building Designer
PO BOX 319
36455 TIMBER RIDGE RD
THE SEA RANCH, CA 95497

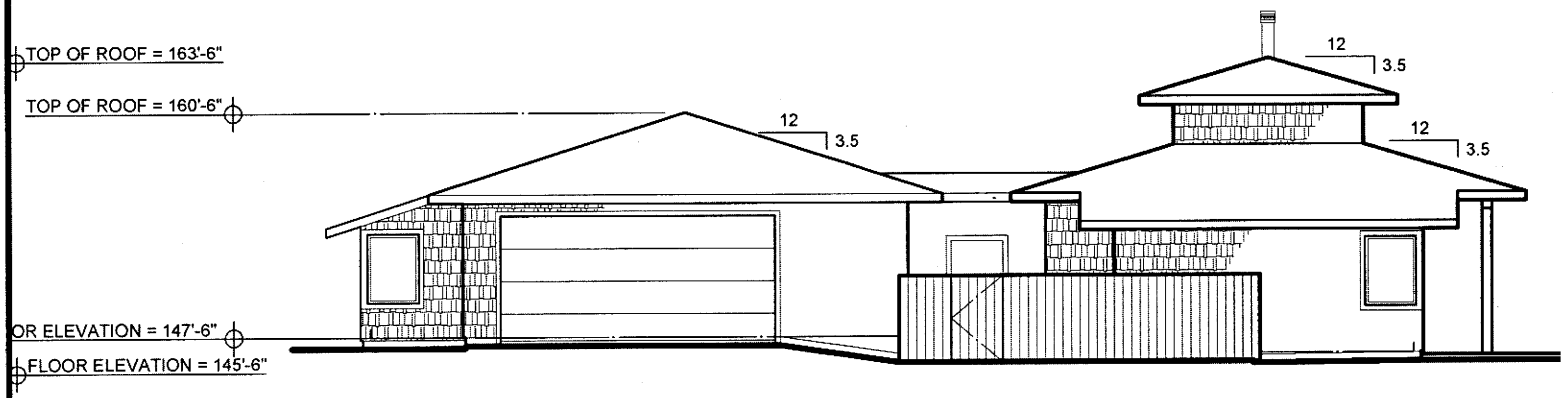
A RESIDENCE FOR:
MICHAEL MARR AND JUDITH MALIN
2800 North Highway One
ALBION, CA 95410

APN: 123-350-04
CDP: 57-2008
A-1-MEN-09-034

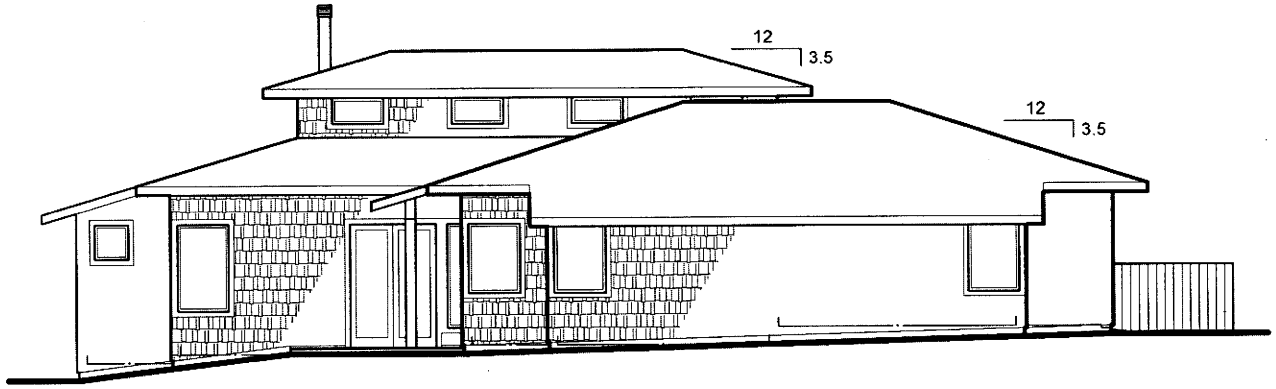
1/10/11

BOB HARTSTOCK, Building Designer PO BOX 319 36455 TIMBER RIDGE RD THE SEA RANCH, CA 95497	A RESIDENCE FOR: MICHAEL MARR AND JUDITH MALIN 2800 North Highway One ALBION, CA 95410	APN: 123-350-04 CDP: 57-2008 A-1-MEN-09-034	1/10/11	6 OF 12

(2 of 6)



NORTH ELEVATION



EAST ELEVATION 0 2 6 10

(3 of 6)

BOB HARTSTOCK, Building Designer
PO BOX 319
36455 TIMBER RIDGE RD
THE SEA RANCH, CA 95497

A RESIDENCE FOR:
MICHAEL MARR AND JUDITH MALIN
2800 North Highway One
ALBION, CA 95410

APN: 123-350-04
CDP: 57-2008
A-1-MEN-09-034

1/10/11

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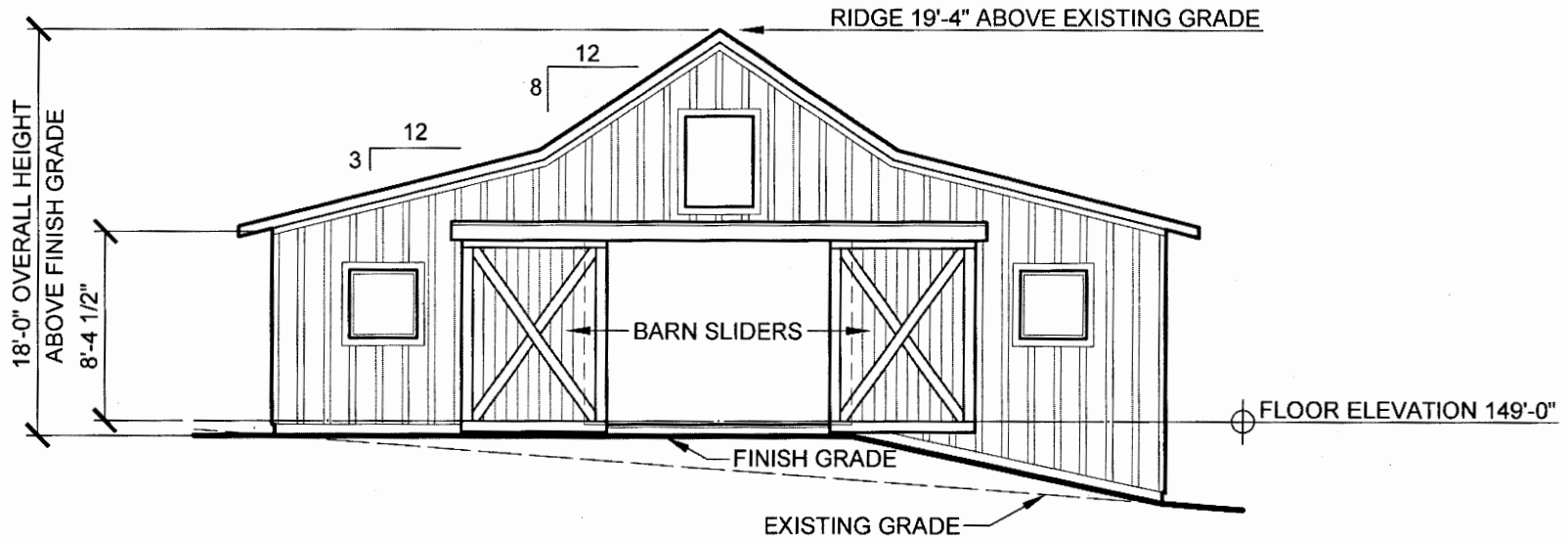
OF 12



WEST ELEVATION

0 2 6 10

BUILDING 2
"THE BARN"
GARAGE/WORKSHOP/GUEST SUITE
EXTERIOR BUILDING MATERIALS:

1) Siding shall be redwood vertical Board and Batten siding, 1x8 and 1x3 with a warm brown semi transparent stain, Sherwin Williams: Woodscapes, semi transparent stain, color charwood.
2) Roof Shingle shall be a Class "A" Fiberglas shingle, color black or charcoal grey.
3) Windows shall be Milgard, Bronze Anodized Aluminum with clear glass.
4) All metal shall be painted black/charcoal grey, except copper.

THE BARN
(workshop and guest suite)

BUILDING SIZE:	WORKSHOP:	1,295 sqft
	GUEST SUITE:	640 sqft
	COVERED PORCH:	105 sqft
	TOTAL BUILDING:	2,040 sqft

Building height above existing grade: 19'-4"
Building height above finish grade: 18'-0"

BOB HARTSTOCK, Building Designer
PO BOX 319
36455 TIMBER RIDGE RD
THE SEA RANCH, CA 95497

A RESIDENCE FOR:
MICHAEL MARR AND JUDITH MALIN
2800 North Highway One
ALBION, CA 95410

APN: 123-350-04
CDP: 57-2008
A-1-MEN-09-034

1/10/11

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OF 12

BOB HARTSTOCK, Building Designer PO BOX 319 36455 TIMBER RIDGE RD THE SEA RANCH, CA 95497	A RESIDENCE FOR: MICHAEL MARR AND JUDITH MALIN 2800 North Highway One ALBION, CA 95410	APN: 123-350-04 CDP: 57-2008 A-1-MEN-09-034	1/10/11	10 OF 12

BOB HARTSTOCK, Building Designer PO BOX 319 36455 TIMBER RIDGE RD THE SEA RANCH, CA 95497	A RESIDENCE FOR: MICHAEL MARR AND JUDITH MALIN 2800 North Highway One ALBION, CA 95410	APN: 123-350-04 CDP: 57-2008 A-1-MEN-09-034	1/10/11	11 OF 12

EXHIBIT NO. 6

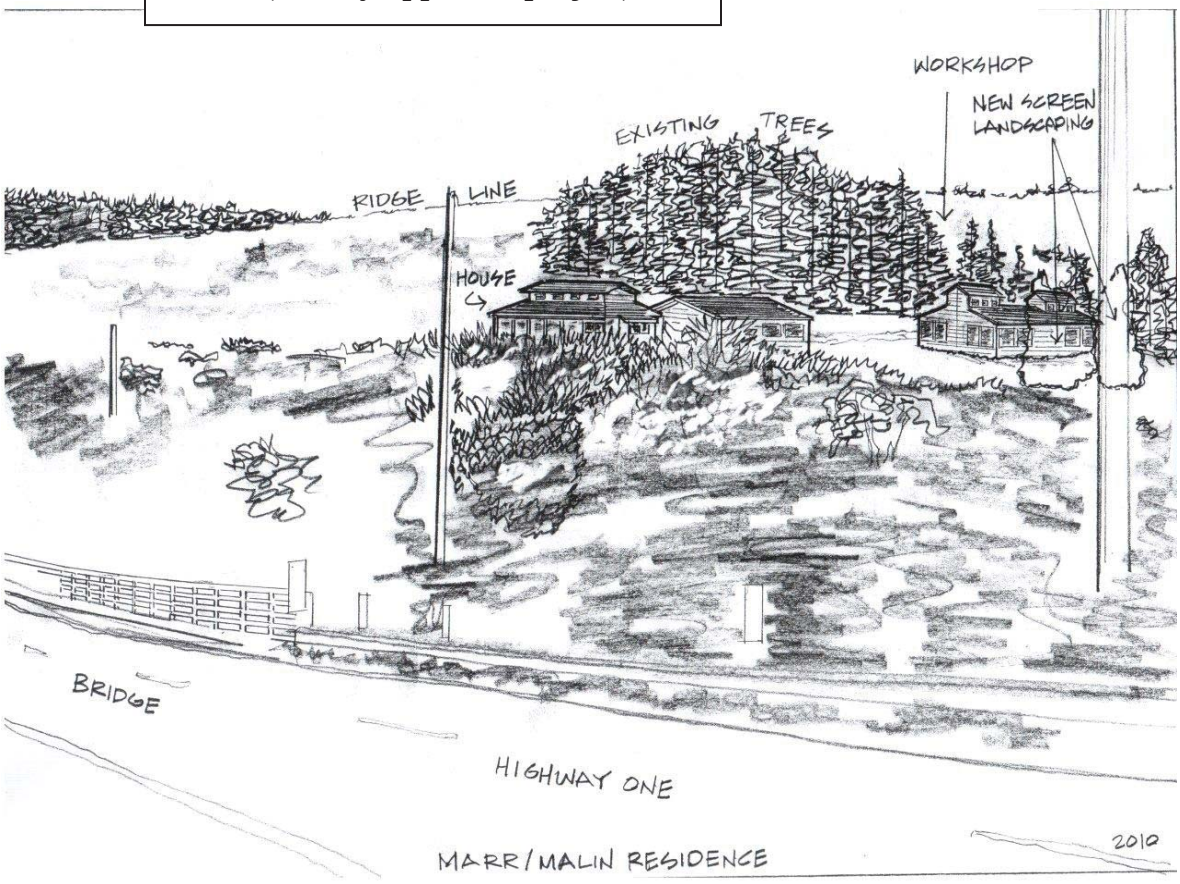
Excerpts from Visual Analysis
No. A-1-MEN-09-034
(Marr-Malin)
1 of 7

MARR/MALIN RESIDENCE

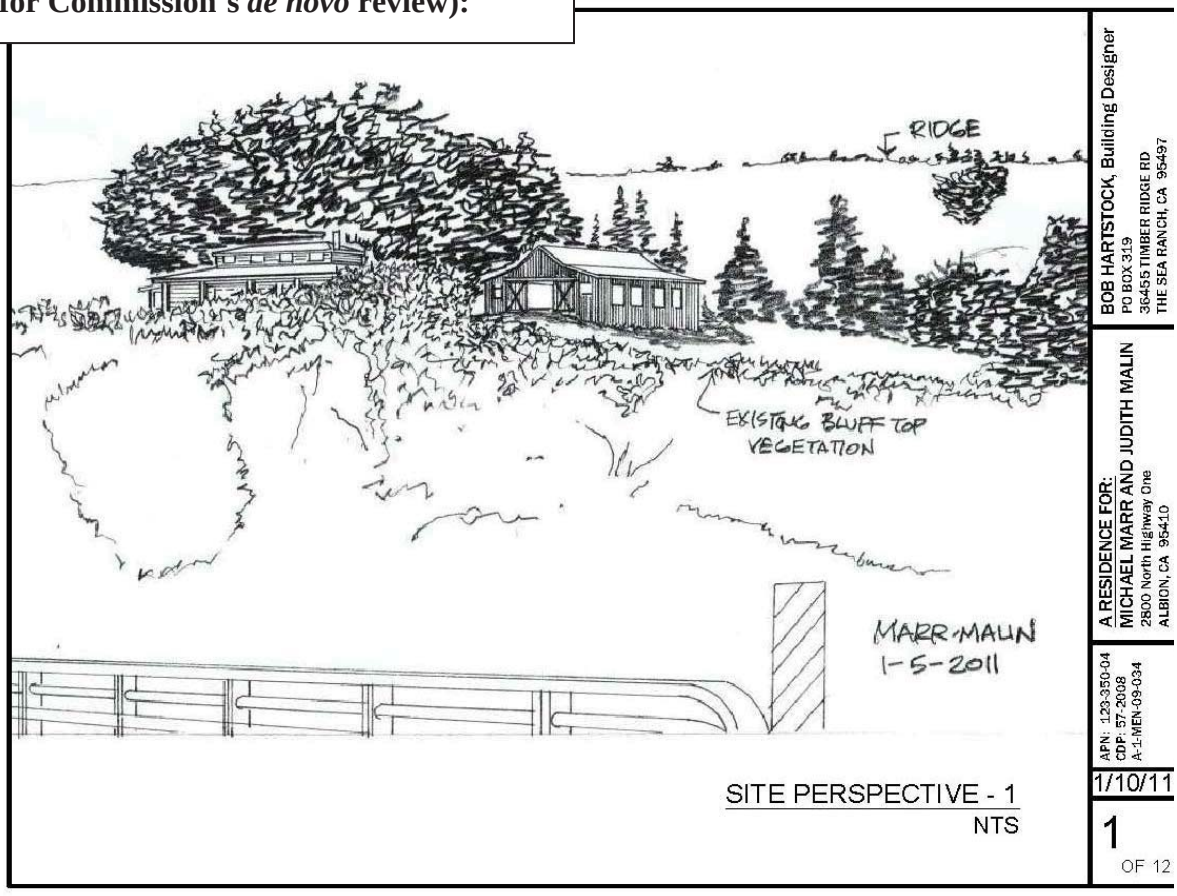
2800 Highway One, Albion, CA

APN: 123-350-04
CDP-57-2008
A-1-MEN-09-034

Before (County-approved project):



After (modified for Commission's *de novo* review):



SITE PERSPECTIVE - 1

NTS

BOB HARTSTOCK, Building Designer
PO BOX 319
36455 TIMBER RIDGE RD
THE SEA RANCH, CA 95497

A RESIDENCE FOR:
MICHAEL MARR AND JUDITH MALIN
2800 North Highway One
ALBION, CA 95410

APN: 123-350-04
CDP: 57-2008
A-1-MEN-09-034

1/10/11

1
OF 12

SITE PERSPECTIVE - 2

NTS

BOB HARTSTOCK, Building Designer
PO BOX 319
36455 TIMBER RIDGE RD
THE SEA RANCH, CA 95497

A RESIDENCE FOR:
MICHAEL MARR AND JUDITH MALIN
2800 North Highway One
ALBION, CA 95410

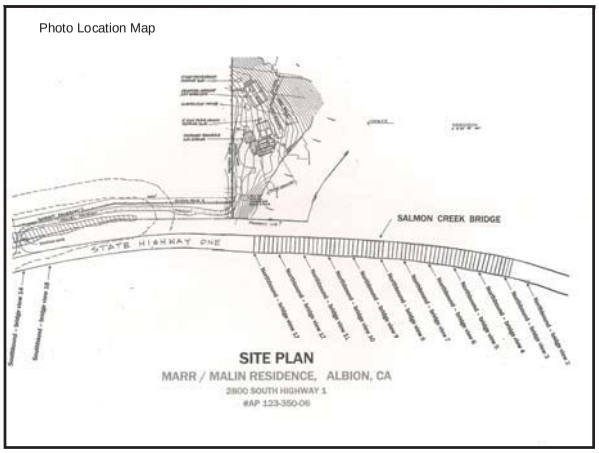
APN: 123-350-04
CDP: 57-2008
A-1-MEN-09-034

1/10/11

2
OF 12

(4 of 7)

Photo Location Map



North Bound @ Salmon Creek Bridge 1

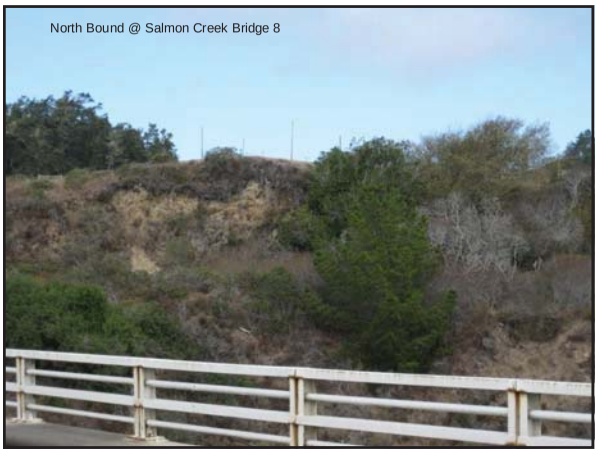
North Bound @ Salmon Creek Bridge 2

North Bound @ Salmon Creek Bridge 3

North Bound @ Salmon Creek Bridge 4

North Bound @ Salmon Creek Bridge 5

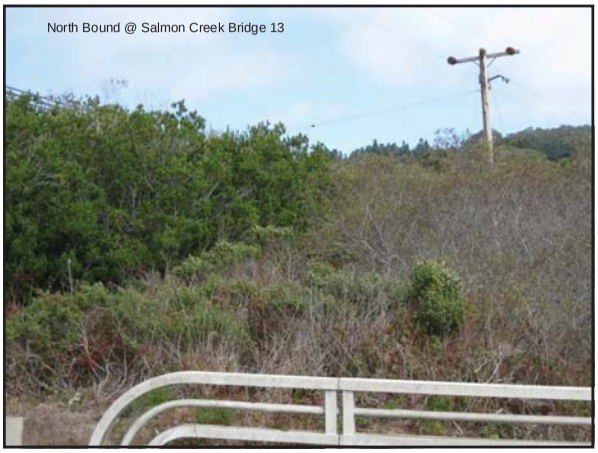

North Bound @ Salmon Creek Bridge 6


North Bound @ Salmon Creek Bridge 8


North Bound @ Salmon Creek Bridge 9


North Bound @ Salmon Creek Bridge 11


North Bound @ Salmon Creek Bridge 12


North Bound @ Salmon Creek Bridge 13


Existing Farm Gate
2800


South Bound to Salmon Creek Bridge 1/6


South Bound to Salmon Creek Bridge 2/6


South Bound to Salmon Creek Bridge 3/6
Elk 9
Point Arena 27
Cloverdale 60


South Bound to Salmon Creek Bridge 4/6
Elk
Point Arena
Cloverdale


South Bound to Salmon Creek Bridge 5/6
NARROW
BRIDGE

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, Governor

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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Melissa Hays (Albion Residents Association) and Rixanne Wehren for the Sierra Club

Mailing Address: PO Box 415

City: Albion Zip Code: Ca 95410 Phone: 707-937-0090

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

SECTION II. Decision Being Appealed

1. Name of local/port government:

Mendocino County Planning and Building

2. Brief description of development being appealed:

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

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

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

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

RECEIVED
JUL 27 2009
CALIFORNIA
COASTAL COMMISSION

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

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-MEN-09-034

STATE OF CALIFORNIA -- THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, Governo

CALIFORNIA COASTAL COMMISSION

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

DATE FILED:	7/27/09
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: June 25, 2009

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

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

Michael Marr and Judith Malin
43 Hillside Ave
Portsmouth RI 02871

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

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

(2) Rixanne Wehren, [redacted], Albion Ca 95410
27401 Albion Ridge Rd.

(3)

(4)

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

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

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

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

1. 3.1-2 and 3.1-7 The ESHA along the highway is not protected by the 100' buffer that is required.

2. 3.5-1, 3.5-2, 3.5-3 This proposed development is not sited and designed to protect views to and along the ocean and scenic coastal areas. It does not minimize the alteration of natural land forms and is not visually compatible with the character of surrounding areas. It is not subordinate to the character of its setting, but instead is too tall and visible from the highway and makes no effort to "tuck" into the setting. There are no other developments of its style in the area and it is not within the scope and character of existing development.

3. 3.5-3 This location is designated Highly Scenic. This proposed development is over 5,600 sq ft and does not provide for the protection of ocean and coastal views from public areas including Highway 1, Salmon Creek beach, and stream and the ocean. The public has been looking at the story poles for months recognizing that this 5,600 sq ft project is going to tower over the Highway and destroy the Highly Scenic ridgeline view. The special condition of planting trees is unrealistic as we have a tree virus which is killing our trees. The proposed site is located in a very windy area close to the ocean which is difficult for the growth and health of trees.

4. 3.5-4 This proposed location is sited on the top of a ridge. The parcel was created from a CoC and a boundary line adjustment and the site is zoned Rangeland 160. The magnitude of the proposed project is inappropriate for the site. The property is not buildable without destroying the intent of the Local Coastal Plan and intented zoning The property is too small to tuck this massive development out of site.There is no fundamental or constitutional right to development of a CoC. The planner himself suggests that the site is so visible that any height of a building would be highly visible.

5. 3.5-8 Power transmission lines which will be visually intrusive within highly scenic corridors should be placed underground and there is no comment regarding this point in the application.

6. 3.5-9 The proposed application creates an encroachment onto Highway 1 and a 900 +/- foot long driveway to the home on top of the ridge. This road will parallel Highway 1 and be extremely visible as it will be placed in grassland destroying the scenic vista of the Anderson Ranch. Direct access to Highway 1 does not protect the coastal views. This road also crosses an ESHA. The application does not take into consideration the fact that Cal Trans is going to widen the road and replace the Albion Bridges and Salmon Creek.

7. Mendocino County Zoning Code Division II of Title 20

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

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

SECTION V. Certification

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

Signature on File

Signature of Appellant(s) or Authorized Agent

Date: 7/24/09

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

Section VI. Agent Authorization

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

_____
Signature of Appellant(s)

Date: _____

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

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

July 8, 2009

NOTICE OF FINAL ACTION

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

CASE#: CDP #57-2008
OWNER: Michael Marr & Judith Malin
APPLICANT: Bob Hartstock
REQUEST: Construct a 2,524± square foot single family residence with a 634± square foot attached garage and 329± square feet of covered porches for a total size of 3,487± square feet. The proposed single story structure would have a maximum average height of 21 feet above natural grade. Construct a detached accessory structure which includes a 1,516± square foot garage/workshop, a 501± square foot guest cottage and 121± covered porch. The proposed accessory structure would have a maximum average height of 24 feet above natural grade and a total size of 2,138± square feet. The guest cottage portion of the accessory structure would be occupied as a temporary residence before and during construction of the proposed residence. Associated development includes: upgrading an existing encroachment onto Highway One, construct a 900± foot long driveway, place a construction trailer, install a septic disposal system, drill a water well and install a water storage tank.
LOCATION: In the Coastal Zone, ¼ ± mile south of Albion and immediately north of Salmon Creek, on the east side of Highway One at 2800 North Highway One (APN: 123-350-06).
PROJECT COORDINATOR: Rick Miller

HEARING DATE: June 25, 2009

APPROVING AUTHORITY: Coastal Permit Administrator

ACTION: Approved with Conditions.

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

The project was not appealed at the local level.

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

EXHIBIT NO. 8
APPEAL NO.
A-1-MEN-09-034
MARR & MALIN
NOTICE OF FINAL LOCAL ACTION (1 of 40)

COASTAL PERMIT ADMINISTRATOR ACTION SHEET

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

OWNER: Marr / Malin

ENVIRONMENTAL CONSIDERATIONS:

✓ Categorically Exempt

_____ Negative Declaration

_____ EIR

FINDINGS:

_____ Per staff report

✓ Modifications and/or additions

SEE ~~Attach~~ June 24, 2009 Memo "Addendum to CDP 57-2008" THAT ILLUSTRATE 10 FINDINGS

ACTION:

✓ Approved

_____ Denied

_____ Continued _____

CONDITIONS:

_____ Per staff report

✓ Modifications and/or additions * Modifications of special conditions on pg CPA-15

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

Modify Cnd #4 amend first sentence to read:

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

(North)

Signed: Coastal Permit Administrator

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

MEMORANDUM

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

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

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

FINDINGS:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Natural Resources (wetlands adjacent to the highway):

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

8. The resource as identified will not be significantly degraded by the proposed development.

9. There is no feasible less environmentally damaging alternative.

10. All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.

Public Comments:

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

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

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

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

COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES
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RECEIVED
JUN 19 2009
CALIFORNIA
COASTAL COMMISSION

June 11, 2009

PUBLIC NOTICE OF PENDING ACTION
STANDARD COASTAL DEVELOPMENT PERMIT

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

CASE #:	CDP #57-2008
DATE FILED:	10/6/2008
OWNER:	Michael Marr & Judith Malin
APPLICANT:	Bob Hartstock
REQUEST:	Construct a 2,524± square foot single family residence with a 634± square foot attached garage and 329± square feet of covered porches for a total size of 3,487± square feet. The proposed single story structure would have a maximum average height of 21 feet above natural grade. Construct a detached accessory structure which includes a 1,516± square foot garage/workshop, a 501± square foot guest cottage and 121± covered porch. The proposed accessory structure would have a maximum average height of 24 feet above natural grade and a total size of 2,138± square feet. The guest cottage portion of the accessory structure would be occupied as a temporary residence before and during construction of the proposed residence. Associated development includes: upgrading an existing encroachment onto Highway One, construct a 900± foot long driveway, place a construction trailer, install a septic disposal system, drill a water well and install a water storage tank.
LOCATION:	In the Coastal Zone, ¼ ± mile south of Albion and immediately north of Salmon Creek, on the east side of Highway One at 2800 North Highway One (APN: 123-350-06).

PROJECT COORDINATOR: Rick Miller

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

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

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

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

Staff reports for agenda items may be accessed and printed from the County website. Go to www.co.mendocino.ca.us/planning
Click on the Boards and Commissions link, click on Coastal Permit Administrator, click on the hearing date

Frank Lynch, Coastal Permit Administrator

STAFF REPORT FOR
STANDARD COASTAL DEVELOPMENT PERMIT

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

OWNERS:	Michael Marr & Judith Malin 43 Hillside Ave. Portsmouth, RI 02871
APPLICANT/AGENT:	Bob Hartstock PO Box 319 The Sea Ranch, CA 95497
REQUEST:	Construct a 2,524± square foot single family residence with a 634± square foot attached garage and 329± square feet of covered porches for a total size of 3,487± square feet. The proposed single story structure would have a maximum average height of 21 feet above natural grade. Construct a detached accessory structure which includes a 1,516± square foot garage/workshop, a 501± square foot guest cottage and 121± covered porch. The proposed accessory structure would have a maximum average height of 24 feet above natural grade and a total size of 2,138± square feet. The guest cottage portion of the accessory structure would be occupied as a temporary residence before and during construction of the proposed residence. Associated development includes: upgrading an existing encroachment onto Highway One, construct a 900± foot long driveway, place a construction trailer, install a septic disposal system, drill a water well and install a water storage tank.
LOCATION:	In the Coastal Zone, ¼ ± mile south of Albion and immediately north of Salmon Creek, on the east side of Highway One at 2800 North Highway One (APN: 123-350-06).
APPEALABLE AREA:	Yes (Highly Scenic Area & ESHA)
PERMIT TYPE:	Standard
TOTAL ACREAGE:	4.17 ± Acre
ZONING:	Range Lands
GENERAL PLAN:	RL - 160
EXISTING USES:	Undeveloped
SUPERVISORY DISTRICT:	5th
ENVIRONMENTAL DETERMINATION:	Categorically Exempt Class 3

CALIFORNIA COASTAL RECORD IMAGE: 200503594

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

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

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

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

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

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

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

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

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

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

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

(D)Shops (non-business)
(G) Accessory Living Unit. Not more than one accessory living unit for each legal parcel.

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

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

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

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

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

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

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

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

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

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

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

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

The retreat rate shall be determined from historical observation (e.g., aerial photographs) and/or from a complete geotechnical investigation.

All grading specifications and techniques will follow the recommendations cited in the Uniform Building Code or the engineering geologists report

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

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

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

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

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

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

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

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

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

Policy 3.5-3 of the Coastal Element states:

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

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

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

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

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

(d) Concentrate development near existing major vegetation, and

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

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

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

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

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

Proposed exterior materials and colors are as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Ms. Nelson's report sates:

> Because of the project modifications, mitigation measures are reevaluated from the previous report and presented here. Little has changed in the analysis of the proposed project utilizing the ESHA development criteria in the Mendocino LCP Ordinance 20.496.020(A) through (4)(k) from the previous report other than a lessening of the wetland impact and avoiding the rare plant (Pt. Reyes checkerbloom) 100 foot buffer as mentioned above. The construction of the road would have a direct, minor impact on seasonal wetland habitat by crossing it with approximately 500 sq. ft. of crushed rock road, but the potentially significant loss is mitigated to a level that is less than significant. Mitigation measures have been provided to minimize adverse environmental effects. The construction of the road will be compatible with the continuance of the ESHAs by maintaining the functional capacity of the wetland and its ability to be self-sustaining, including maintaining natural species diversity. No significant change in topographic landforms is needed by constructing the road because the existing road is being utilized, and as a result there are no drainage modifications that would significantly alter the hydrology.
>
> Impact 1: The proposed construction of the paved driveway approach and crushed rock road will result in crossing approximately 500 sq. ft. of Coastal Act wetland. Although an existing ranch

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

Mitigation Measure 1a: **Enhance the quality of the disturbed wetland (approximately 500 sq. ft.) at the base of the Highway 1 berm. (This is a mitigation ration greater than 10:1.)**
Exotic plant species: Himalaya blackberry (*Rubus discolor*), periwinkle (*Vinca major*), and watsonia iris (*Watsonia bulbillifera*) will be removed over a 3 year period in the wetland at the base of the Highway 1 berm. A qualified botanist will submit a brief annual report to Mendocino County Planning and Building documenting the progress. Additionally, the entrance area along the road will be moved to promote the growth of native wetland forbs. All exotic plants can be removed from the location with shovels. It will be the botanist's job to document the extent of exotic plants annually after each removal effort, and to make sure the owner or the owner's employee knows how to identify the aforementioned weeds.

Mitigation Measure 1b: **Use permeable surfaces for road surfaces.**
To reduce the potential for concentrated water runoff form leaving the proposed develop sites, a semi-permeable surface such as crushed rock will be used in place of concrete or asphalt for the entrance road. However, it is necessary to pave the approach to the highway.

Mitigation Measure 1c: **Install temporary fencing to ensure grading and/or material storage does not occur in the rare plant area or wetland.**
Temporary fencing, such as orange plastic fencing or black silt cloth, will be placed on the outer edge of the road where it leaves the asphalt apron. This will ensure that equipment used in the construction of the road or extra piles of dirt do not intrude on the wetland.

Mitigation Measure 1d: **Design the entrance road so that it is on the easternmost side of the access easement past the Highway 1 approach.**
By making use of the easternmost side of the easement, a greater buffer is given to the seasonal wetland. The road will make use of the existing road that crosses the wetland and then it will avoid the wetland by paralleling it along the easement.

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

Mitigation Measure 2a: **Planting of invasive landscaping plants will not occur.**
Landscaping within the ESHA buffers will not include any of the invasive plants below that are commonly used in landscaping. They include the following species.

- blue gum eucalyptus (*Eucalyptus globulus*)
- jubatagrass or pampasgrass (*Cortaderia jubata* or *Cortaderia selloana*)
- ivies: English ivy, Algerian ivy, or cape ivy (*Hedera canariensis, Delairea odorata* or *Hedera helix*)
- periwinkle (*Vinca major*)
- cotoneaster (*Cotoneaster lacteus* or *Cotoneaster pannosus*)
- Brooms: Bridal broom, French broom, Portuguese broom, Scotch broom or Spanish broom (*Retama monosperma, Genista monspessulana, Cytisus striatus, Cytisus scoparius* or *Spartium junceum*)

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

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

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

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

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

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

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

FINDINGS:

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

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

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

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

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

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

7. The proposed use is compatible with the long-term protection of resource lands.

STANDARD CONDITIONS:

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

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

2. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Division II of Title 20 of the Mendocino County Code.

3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and that compliance therewith is mandatory, unless an amendment has been approved by the Coastal Permit Administrator.

4. This permit is subject to the securing of all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.

5. The applicant shall secure all required building permits for the proposed project as required by the Building Inspection Division of the Department of Planning and Building Services.

6. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:

   a. The permit was obtained or extended by fraud.

b. One or more of the conditions upon which the permit was granted have been violated.

c. The use for which the permit was granted is conducted so as to be detrimental to the public health, welfare or safety, or to be a nuisance.

d. A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more such conditions.

7. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.

8. If any archaeological sites or artifacts are discovered during site excavation or construction activities, the applicant shall cease and desist from all further excavation and disturbances within one hundred feet of the discovery, and make notification of the discovery to the Director of the Department of Planning and Building Services. The Director will coordinate further actions for the protection of the archaeological resources in accordance with Section 22.12.090 of the Mendocino County Code.

SPECIAL CONDITIONS:

1. The owner shall be permitted to occupy the proposed guest cottage as a residence before and during the construction of the proposed single family residence. Prior to final building inspection of the residence, the owner shall remove all permanent or temporary and portable cooking or preparation of food areas including wetbars and refrigerators. The owner shall obtain a building inspection of the guest cottage unit to verify the food areas have been removed. Once owner occupancy of the guest cottage has ceased, the use of the guest cottage shall remain consistent with the provisions of Section 20.308.050(G)(I) and 20.308.070(K)(B) of the Coastal Zoning Code, in that it shall not contain facilities, either permanent or temporary and portable, for the cooking or preparation of food, it shall not be used as an independent dwelling unit, and it shall only be used by the occupants of the primary dwelling on the property or their guests, without compensation.

2. The recommendations in the Geotechnical and Geologic Investigation report (dated June 2008) from SHN Consulting Engineers and Geologists, Inc., shall be incorporated into the design and construction of the proposed project. Prior to issuance of the building permit, the applicant shall submit evidence that a qualified geotechnical or civil engineer has reviewed the final grading and building plans. No development shall be permitted within 40 feet of the blufftop edge.

3. Prior to the issuance of the Coastal Development Permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Coastal Permit Administrator which shall provide that:

a) The landowner understands that the site may be subject to extraordinary geologic and erosion hazards and the landowner assumes the risk from such hazards;

b) The landowner agrees to indemnify and hold harmless the County of Mendocino, it successors in interest, advisors, officers, agents and employees against any and all claims, demands, damages, costs, and expenses of liability (including without limitation attorneys' fees and costs of the suit) arising out of the design, construction, operation, maintenance, existence or failure of the permitted project. Including, without limitation, all claims made by any individual or entity or arising out of any work performed in connection with the permitted project;

c) The landowner agrees that any adverse impacts to the property caused by the permitted project shall be fully the responsibility of the applicant;

d) The landowner shall not construct any bluff or protective devices to protect the subject single-family residence, garage, septic system, or other improvements in the event that these structures are subject to damage, or other erosional hazards in the future;

e) The landowner shall remove the house and its foundation when bluff retreat reaches the point where the structure is threatened. In the event that portions of the house, garage, foundations, leach field, septic tank, or other improvements associated with the residence fall to the river or beach before they can be removed from the blufftop, the landowner shall remove all recoverable debris associated with these structures from the beach and ocean and lawfully dispose of the material in an approved disposal site. The landowners shall bear all costs associated with such removal;

f) The document shall run with the land, bind all successors and assigns, and shall be recorded free of all prior liens and encumbrances, except for tax liens.

4. Prior to issuance of the coastal permit, the applicant shall submit for the review and approval of the Costal Permit Administrator a landscape plan to provide a visual screen of the development as viewed from Highway One, south of the site. The plan is intended to partially buffer the view of the project but is not expected to completely hide the project. The plan shall utilize native vegetation and provide tall enough vertical elements to provide the expected visual buffer. All required landscaping shall be installed prior to final clearance of the building permit for the residence, or occupancy of the residence, whichever occurs first. All required landscaping shall be irrigated, staked, maintained, and replaced, as necessary, to ensure that a vegetative screen is established and maintained in perpetuity. Any future vegetation removal on the site shall require prior authorization from the Planning Division or, if it constitutes "major vegetation removal," shall require a coastal development permit amendment.

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

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

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

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

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

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

Staff Report Prepared By:

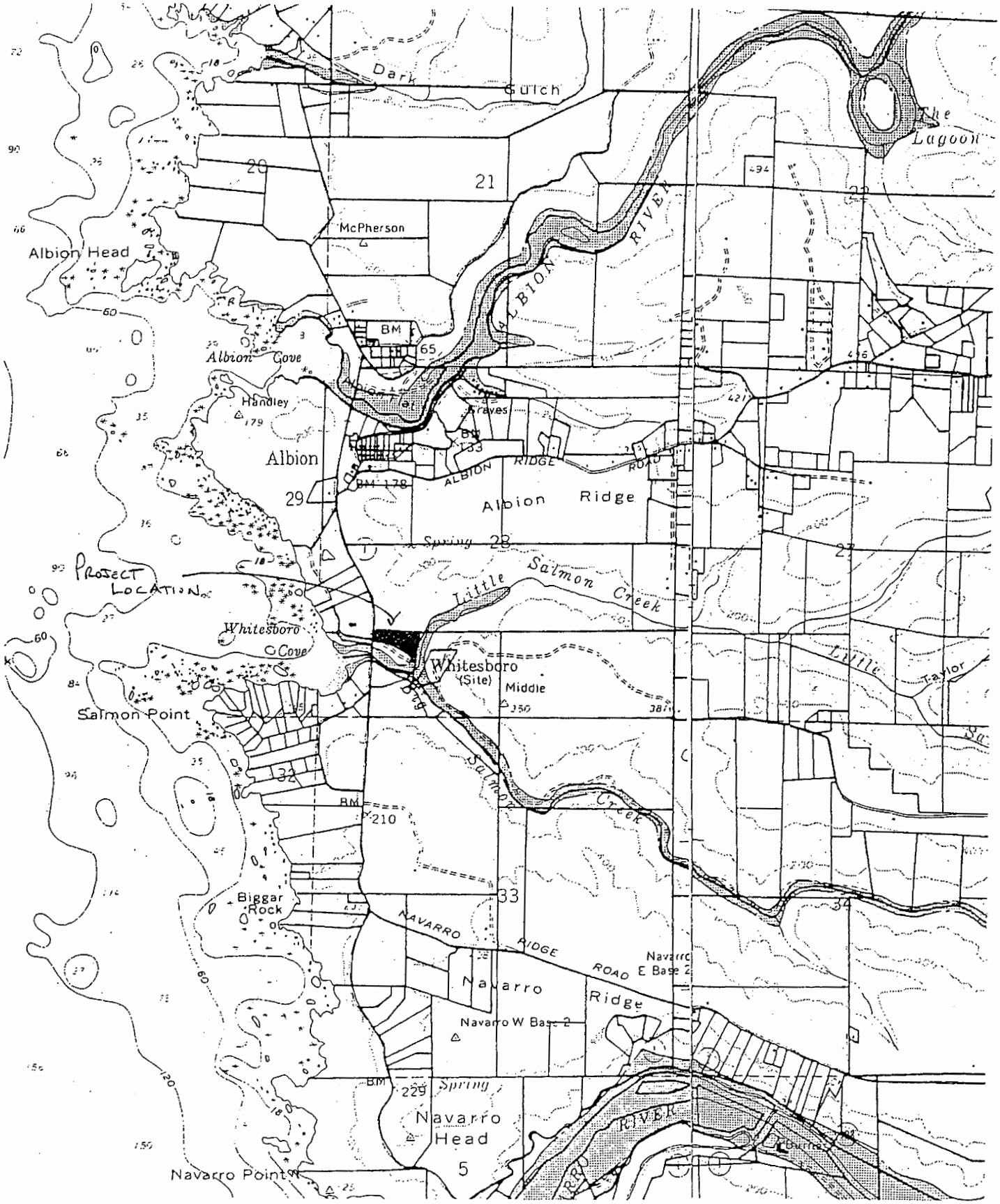
6·12·09
Date

Rick Miller
Senior Planner

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

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

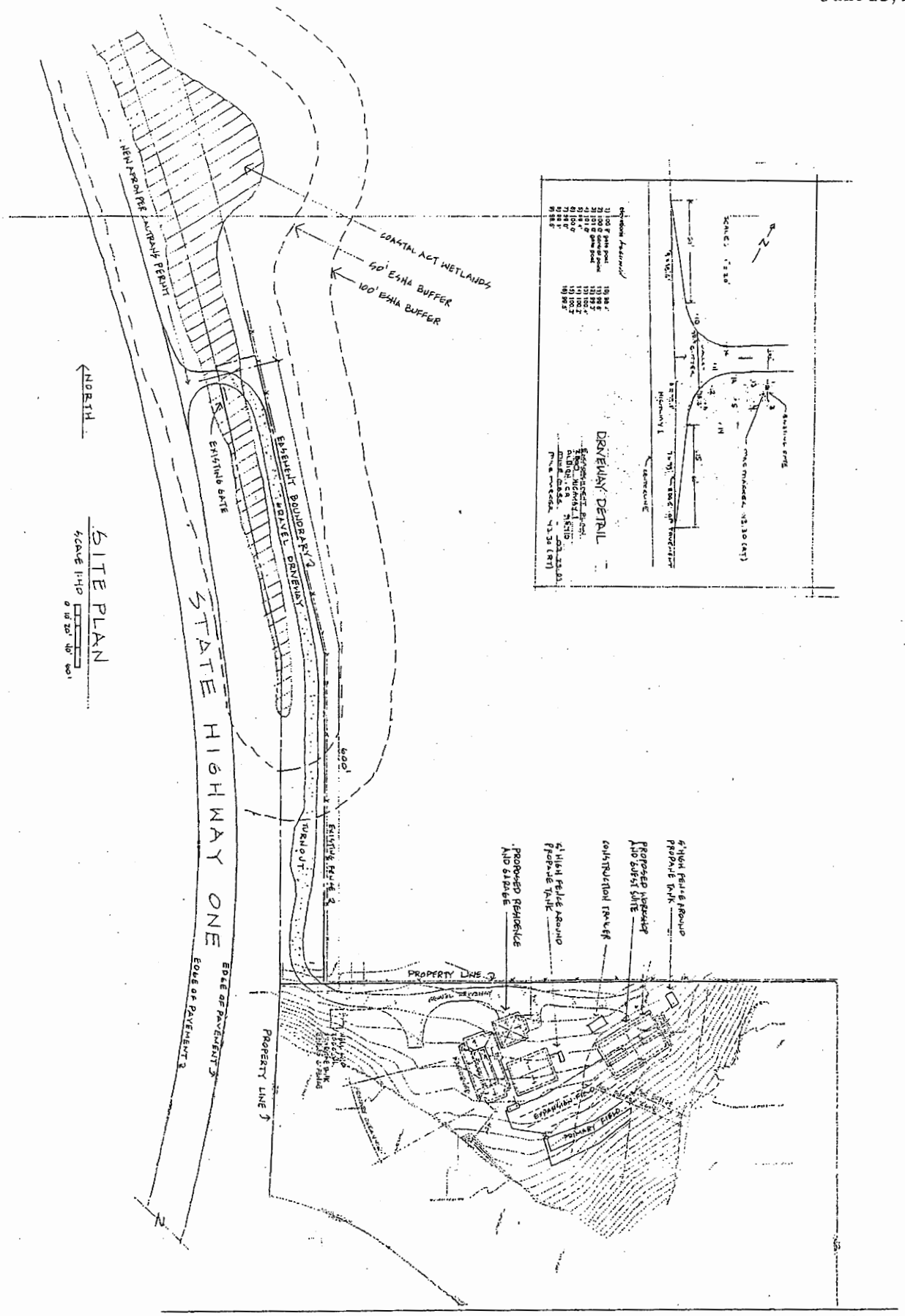
Appeal Fee: $945.00 (For an appeal to the Mendocino County Board of Supervisors.)



Location Map

NO SCALE

NORTH


COASTAL ACT WETLANDS
50' ESHA BUFFER
100' ESHA BUFFER
NEW APPROPRIATE ASPHALT PERMIT
NORTH
EXISTING GATE
EASEMENT BOUNDARY
GRAVEL DRIVEWAY
600'
TURNOUT
EXISTING FENCE
STATE HIGHWAY ONE
EDGE OF PAVEMENT
EDGE OF PAVEMENT
PROPERTY LINE
PROPERTY LINE
SITE PLAN
SCALE 1"=10'
DRIVEWAY DETAIL
PROPOSED REHOUSE AND GARAGE
6' HIGH FENCE AROUND PROPANE TANK
CONSTRUCTION FENCE
PROPOSED WORKSHOP AND GUEST SUITE
6' HIGH FENCE AROUND PROPANE TANK
EXPANSION FIELDS
PRIMARY FIELD
P

Site Plan

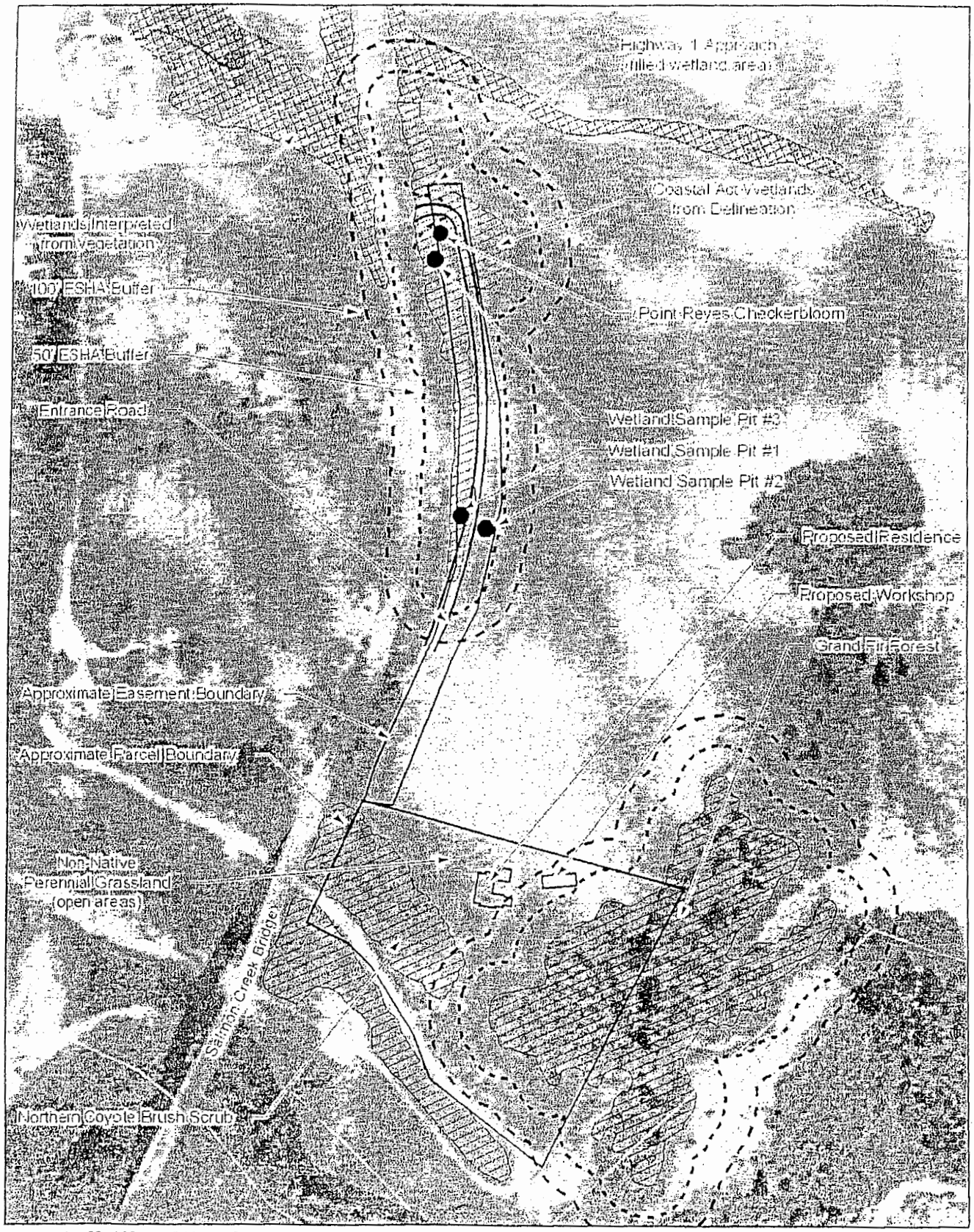
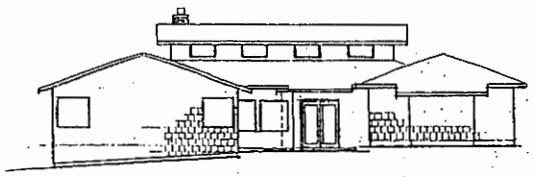
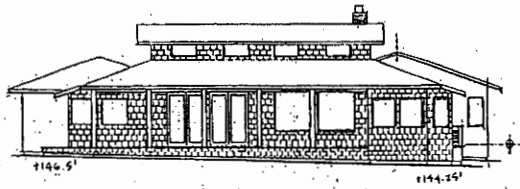


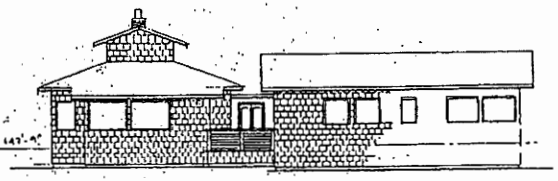
Figure 1. ESHA Map with Buffers. Wetland delineation pits are shown.



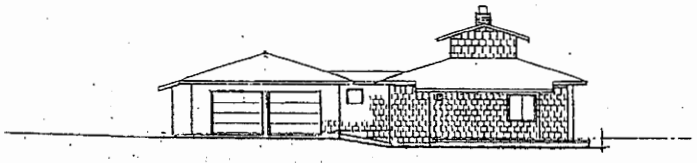
NORTHEAST ELEVATION



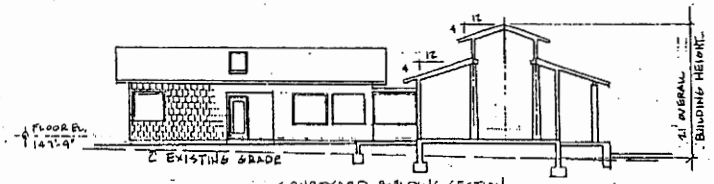
SOUTHWEST ELEVATION
SCALE 1/8"



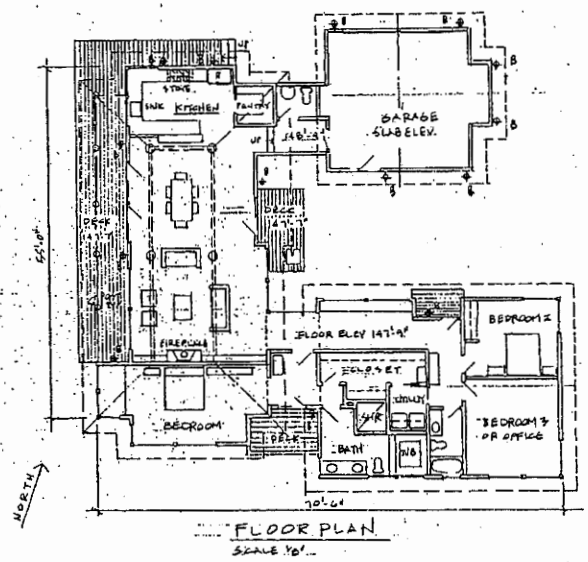
SOUTHEAST ELEVATION



NORTHWEST ELEVATION



COURTYARD BUILDING SECTION
SCALE 1/8



FLOOR PLAN
SCALE 1/8"

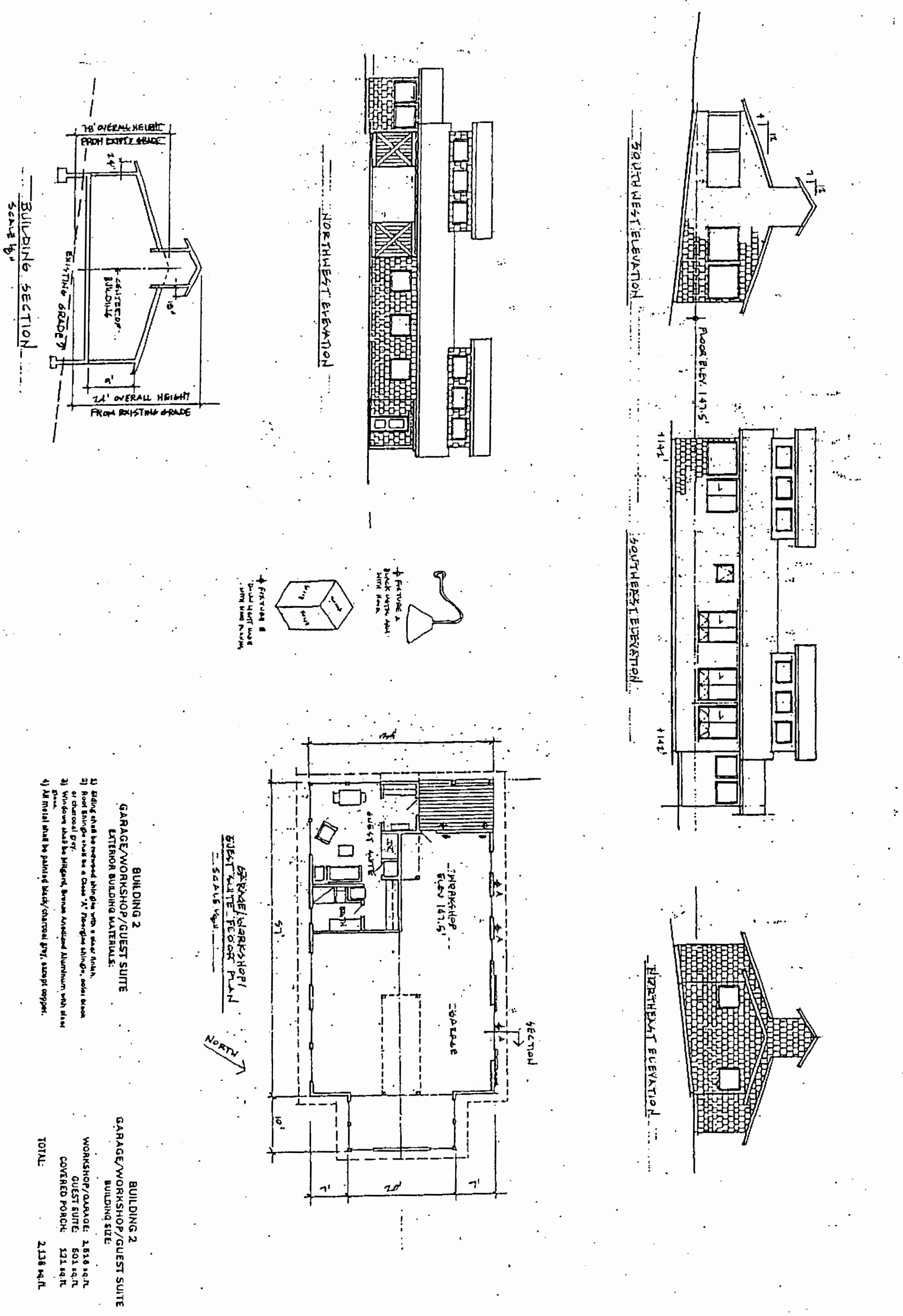
FIXTURE E
DOWN LIGHT WASH WITH WIRE BASKET

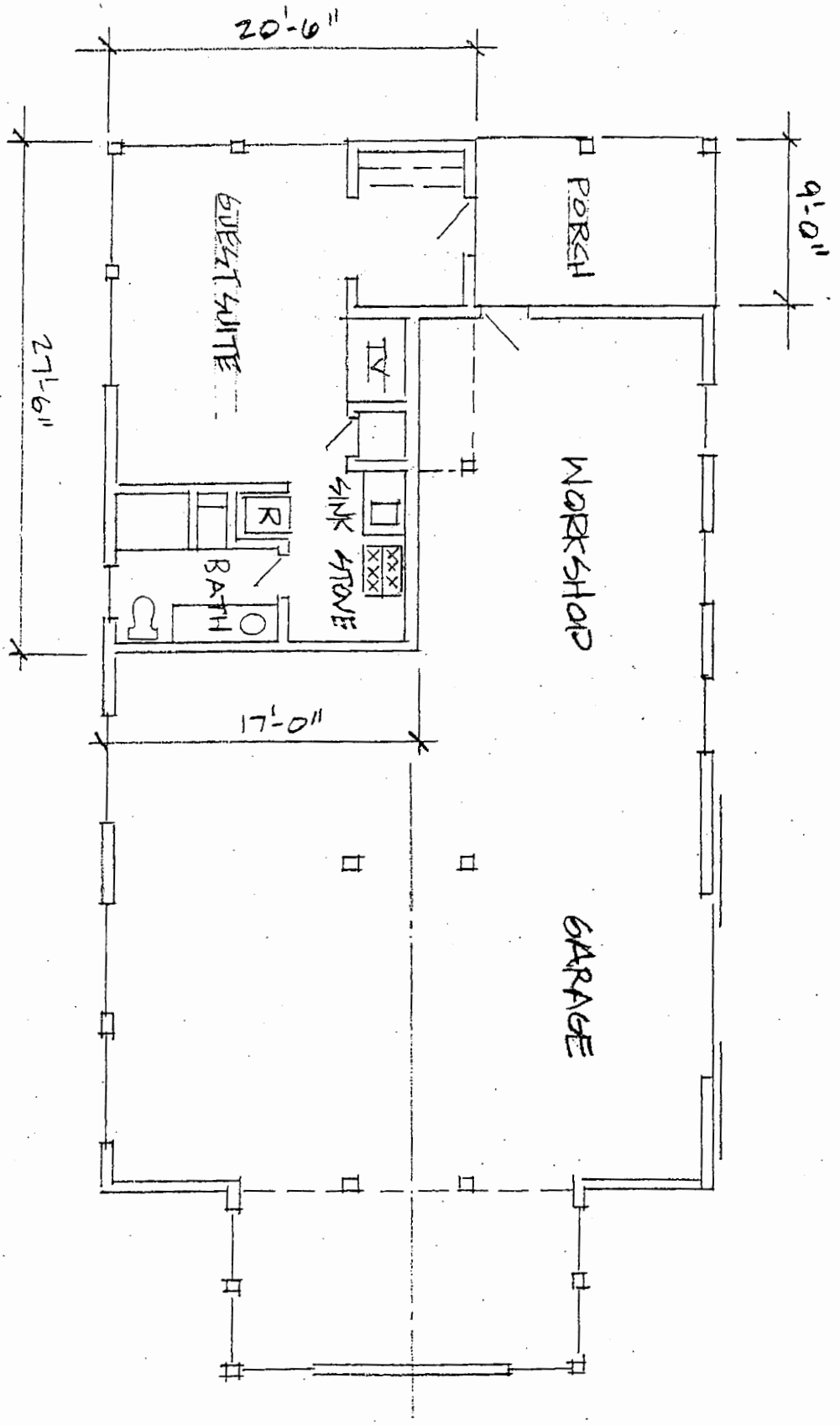
MAIN RESIDENCE:
EXTERIOR BUILDING MATERIALS:

1) Siding shall be redwood shingles with a clear finish.
2) Roof Shingle shall be a Class "A" Fiberglass shingle, color black or charcoal grey.
3) Windows shall be Milgard, Bronze Anodized Aluminum with clear glass.
4) All metal shall be painted black/charcoal grey, except copper.

MAIN RESIDENCE:
BUILDING SIZE:

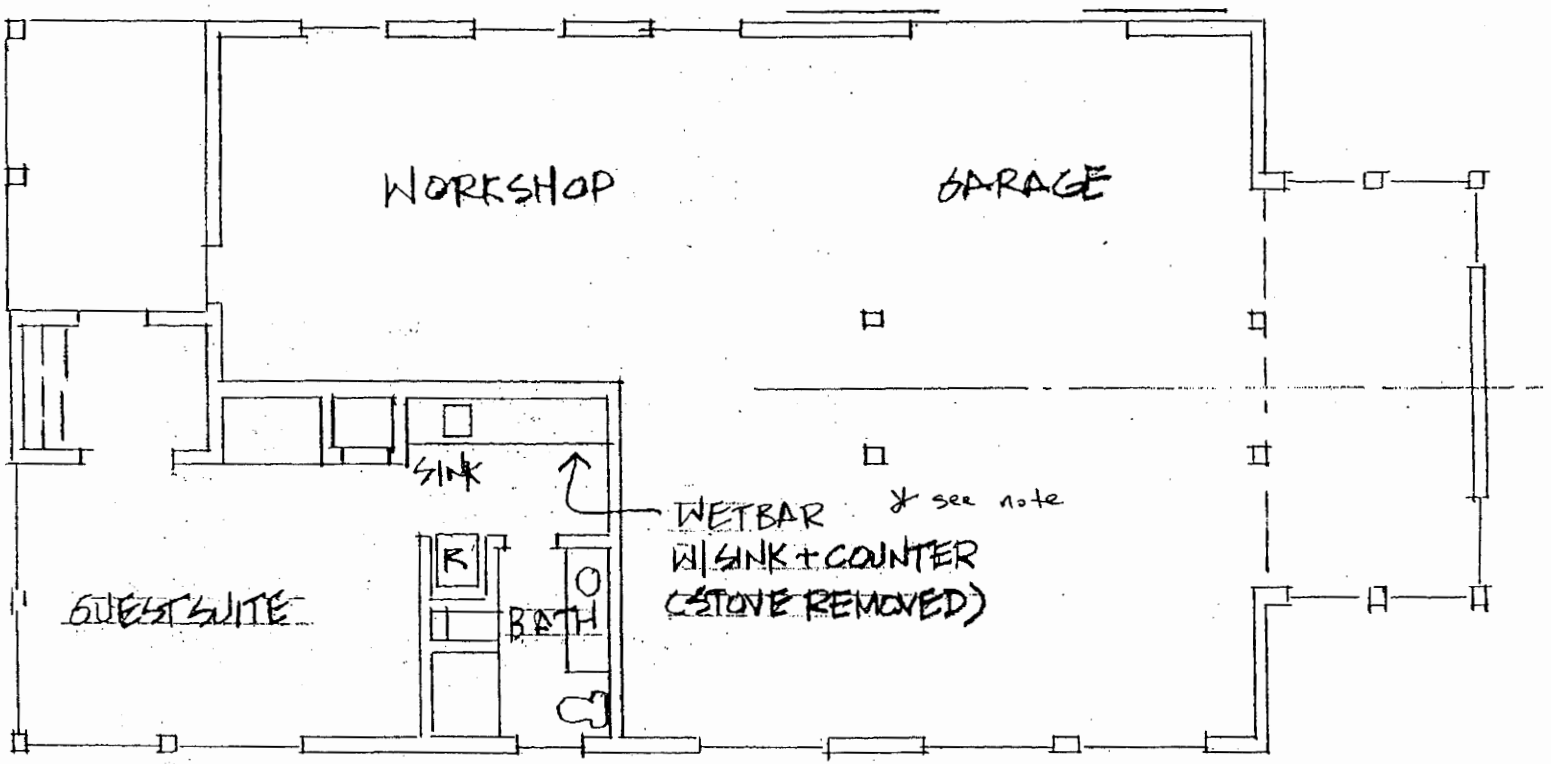
HOUSE:	2,624 sq.ft.
GARAGE:	634 sq.ft.
COVERED PORCHES:	320 sq.ft.


SOUTHWEST ELEVATION
FLOOR ELEV. 147.5'
SOUTHEAST ELEVATION
NORTHEAST ELEVATION
NORTHWEST ELEVATION
FIXTURE A
FIXTURE B
WORKSHOP ELEV 147.5'
GARAGE
GUEST SUITE
BATH
SECTION
57'
10'
7'
20'
NORTH
GARAGE/WORKSHOP/ GUEST SUITE FLOOR PLAN
78' OVERALL HEIGHT FROM EXISTING GRADE
CENTER OF BUILDING
EXISTING GRADE
21' OVERALL HEIGHT FROM EXISTING GRADE
BUILDING SECTION
BUILDING 2
GARAGE/WORKSHOP/GUEST SUITE
EXTERIOR BUILDING MATERIALS:
1) Siding shall be redwood shingles with a clear finish.
2) Roof Shingle shall be a Class "A" fiberglas shingle, color black or charcoal grey.
3) Windows shall be Milgard, Bronze Anodized Aluminum with clear glass.
4) All metal shall be painted black/charcoal grey, except copper.
BUILDING 2
GARAGE/WORKSHOP/GUEST SUITE
BUILDING SIZE:
WORKSHOP/GARAGE: 1,516 sq.ft.
GUEST SUITE: 501 sq.ft.
COVERED PORCH: 121 sq.ft.
TOTAL: 2,138 sq.ft.



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

MARR/MALIN RESIDENCE
2800 HIGHWAY ONE



PLAN 'B' GARAGE/WORKSHOP/GUEST SUITE
W| WETBAR 02-25-09

MARR/MALIN RESIDENCE
2800 HIGHWAY ONE

* per Special Condition 1, staff recommends all food prep. and storage be removed.

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

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

November 26, 2008

Planning-Ukiah	Arch Commission	~~Coastal~~ Commission
Environmental Health	Caltrans	Albion-Little River Fire District
Building Inspection (FB)	US Fish & Wildlife Service	
Assessor	Dept of Fish & Game	

***CASE#:** CDP #57-2008
OWNER: Michael Marr & Judith Malin
AGENT: Bob Hartstock
REQUEST: Construct a 2,524+- square foot single-family residence with a 634+- square foot attached garage and approximately 330 square feet of covered porches for a total size of 3,437 square feet. The proposed single-story residence is to have a maximum average height of 21 feet above grade. Construct a detached accessory structure, which includes a 1,516+- square foot garage/workshop, 501 square foot guest cottage and 121 square foot covered porch. The structure is to have a maximum average height of 24 feet above grade and a total size if 2,138 square feet. Associated development includes: creation of a new driveway encroachment on to Highway One, a septic disposal system, water well, driveway, water storage tank.
APPEALABLE AREA: Yes
LOCATION: In the coastal zone, approximately ½ mile S of Albion and immediately N of Salmon Creek, on the E side of Highway One at 2800 N. Highway One, Albion (APN 123-350-06).
***PROJECT COORDINATOR:** Rick Miller
RESPONSE DUE DATE: December 11, 2008

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

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

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

REVIEWED BY: Name _____ Department _____ Date _____

_____No Comment _____Comment to follow

_____Comments attached or Below

COASTAL DEVELOPMENT PERMIT REVIEW SHEET

☒ STANDARD ☐ ADMINISTRATIVE ☐ MODIFICATION CDP # 57-2008

☐ USE PERMIT ☐ VARIANCE ☐ _____ DATE FILED: 10.6.08

APPEALABLE AREA: ☒ YES ☐ NO H.S.A. GOV'T CODE DATE: _____

OWNER: Michael Marr + Judith Malin

APPLICANT: Bob Hartstock

AGENT: Bob Hartstock

REQUEST: Construct a 2,524± sq. ft. single family residence w/ a 634± sq. ft. attached garage and approx. 330 sq. ft. of covered porches. Proposed single story residence to have a max. avg. height of 21 ft. above grade. Construct a detached accessory structure which includes 1,516± sq. ft garage/workshop, 501 sq ft. guest cottage, and 121 sq ft. covered porch. Structure to have max. avg. height of 24 ft. above grade and total size of 2,138 sq. ft. * total size of 3,489 sq ft

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

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

GENERAL PLAN: RL 160 ZONING: RL 160 PARCEL SIZE: ~~5±~~ 16± ~~S.F.~~ AC.

EXISTING USES: Vacant SUPERVISORIAL DISTRICT: 5

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

PERMITS ON HOLD PENDING CDP: _____

REFERRAL AGENCIES:

- ☒ Environmental Health
- ☒ Building Inspection
- ☒ Assessor
- ☒ Coastal Commission
- ☐ Sonoma State/CHRIS
- ☐ DOT
- ☒ Caltrans
- ☐ Dept. of Parks and Recreation
- ☒ Dept. of Fish and Game - save referral for hand delivery w/ report
- ☐ Native Plant Society
- ☒ US Fish and Wildlife Service - send copy of botanical report
- ☐ Army Corps of Engineers
- ☐ County Water Agency

- ☐ Air Quality Management District
- ☐ RWQCB
- ☐ MHRB
- ☐ GMAC
- ☐ _____ Sewer District
- ☐ _____ Water District
- ☒ Albion Fire District
- ☐ _____ Community Services District
- ☐ _____ City Planning Department
- ☐ _____ School District
- ☒ Arch. Comm. - include report
- ☒ Ukiah PBS (info from COB 76-04)
- ☐ _____

PROJECT COORDINATOR: Rick Miller PREPARED BY: RM DATE: 11.24.08

ENVIRONMENTAL DATA

S	NO	
	☑	1. CDP Exemption *or* CDP Exclusion
	☐	2. LUP Map Number 18
	☑	3. Blufftop Parcel
	☐	4. Highly Scenic Area: East *or* West of Hwy 1
	☐	5. Adjacent to State Forest/Park/Recreation Area
	☑	6. Within/Adjacent to Agriculture Preserve *or* TPZ
	☐	7. Within Mendocino Historical Preservation District: Zone A *or* B
	☑	8. Alquist-Priolo Earthquake Fault Zone (from Manchester to Gualala)
	☑	9. Floodplain/Floodway
	☐	10. Natural Diversity Data Base #s see report
	☐	11. ESHA - Riparian, Wetland, Rare Plants, Sand Dunes, Pygmy Vegetation and/or Soils
	☐	12. Building Envelopes/Buffer Zones ~~ESHA~~ + geology
	☐	13. Geotechnical Hazards: Coastal Bluff, >20% Slopes see report

14. Coastal Groundwater Zone: SWR MWR (CWR) CWRbr

15. Fire Hazard Classification: CDF Exempt *or* CDF# 315-08

(Moderate) High Very High

QA Status: _____

DDITIONAL INFORMATION:

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

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

COASTAL DEVELOPMENT PERMIT APPLICATION FORM

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

Project Description:

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

Driving Directions

The site is located on the E (N/S/E/W) side of HIGHWAY ONE (name road)

Approximately 1/2 (feet/miles) S (N/S/E/W) of its intersection with

ALBION RIDGE ROAD (provide nearest major intersection).

Assessor's Parcel Number(s)
123-350-06

Parcel Size
4
☐ Square Feet
☒ Acres

Street Address of Project
28000 HIGHWAY ONE
ALBION, CA 95410
Please note: Before submittal, please verify correct street address with the Planning Division in Ukiah.

COASTAL DEVELOPMENT PERMIT
APPLICATION QUESTIONNAIRE

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

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

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

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

TYPE OF UNIT	NUMBER OF STRUCTURES/UNITS	EXISTING SQ. FEET PER STRUCTURE	PROPOSED SQ. FEET PER STRUCTURE	TOTAL SQ. FEET PER STRUCTURE
☑ Single Family	1		3487	3487
☐ Mobile Home				
☐ Duplex/Multifamily				
☑ Detached Structures (List individually)	1		2138	2138

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

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

A. Electricity
- ☐ Utility Company (service exists to the parcel).
- ☑ Utility Company (requires extension of services to site: 100 feet _____ miles
- ☐ On Site generation, Specify: _____
- ☐ None

B. Gas
- ☑ Utility Company/Tank
- ☐ None

C. Telephone: ☑ Yes ☐ No

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

6. What will be the method of sewage disposal?

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

7. What will be the domestic water source?

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

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

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

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

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

FLAT

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

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

10. Will the proposed development be visible from:

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

If you answered yes to either question, explain.

PROPERTY FRONTS HIGHWAY 1

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

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

Siding material	REDWOOD	Color	NATURAL
Trim material	REDWOOD	Color	NATURAL
Chimney material	BRICK	Color	RED
Roofing material	CLASS A COMPOSITION	Color	BLACK/GREY
Window frame material	BRONZE ANDDIZED ALUM	Color	BRONZE
Door material	" "	Color	"
Fencing material	CEDAR	Color	NATURAL
Retaining walls material	—	Color	
Other exterior materials	—	Color	

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

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

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

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

Will the proposed project be phased? ☐ Yes ☐ No

If Yes, explain your plans for phasing.

Parking will be provided as follows:

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

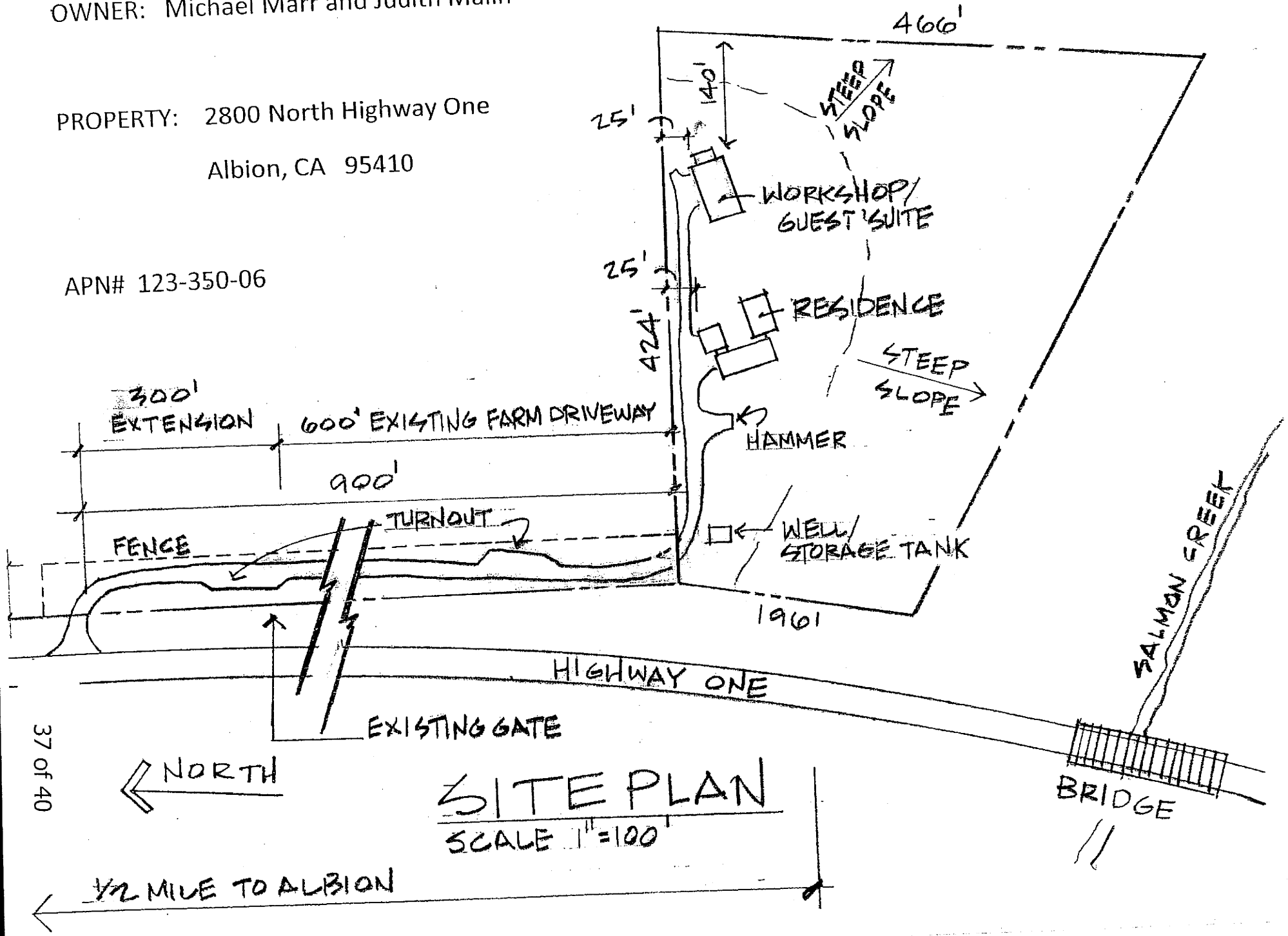
Number of standard spaces: _____ Size: _____
Number of handicapped spaces: _____ Size: _____

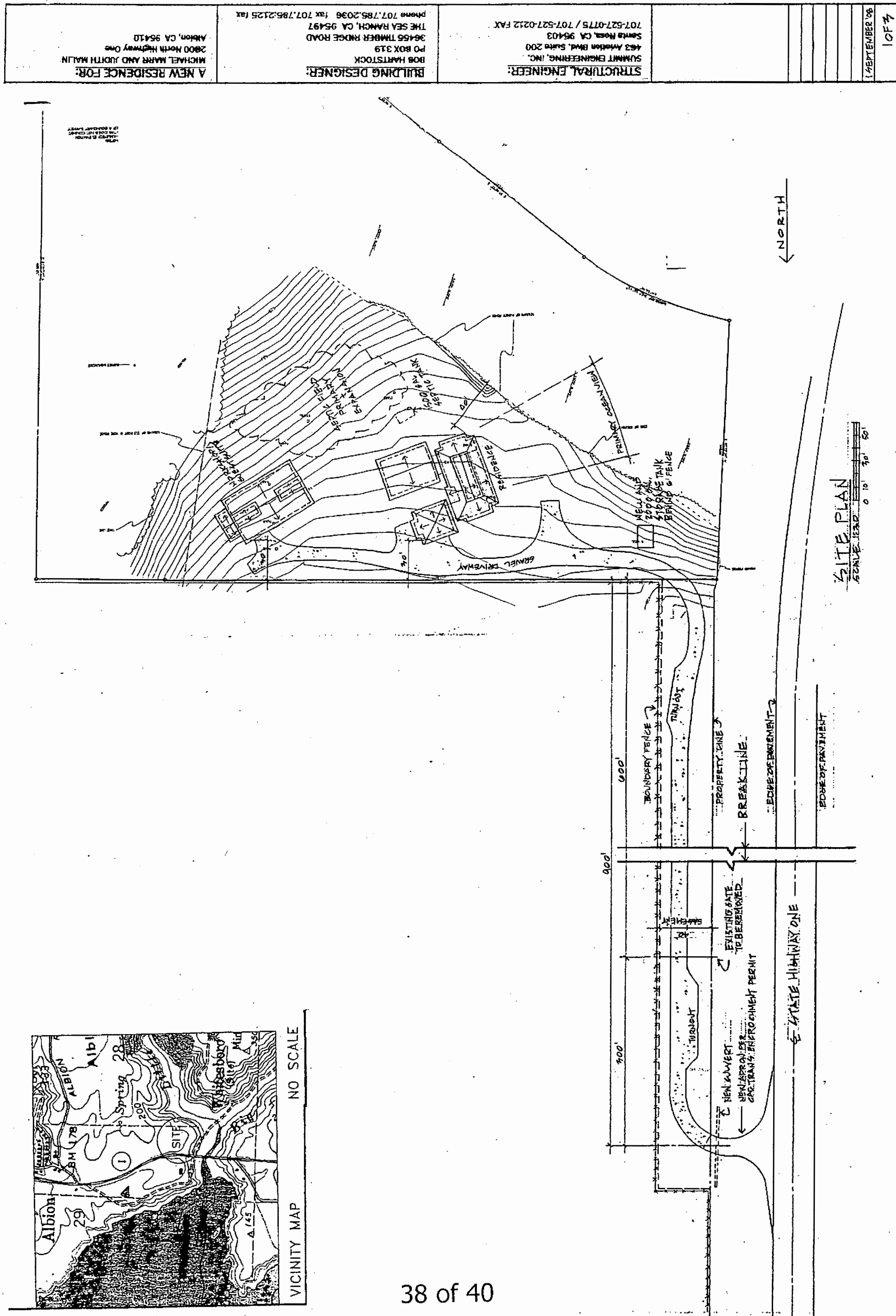
OWNER: Michael Marr and Judith Malin

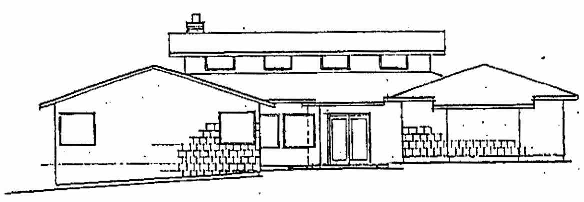
PROPERTY: 2800 North Highway One

Albion, CA 95410

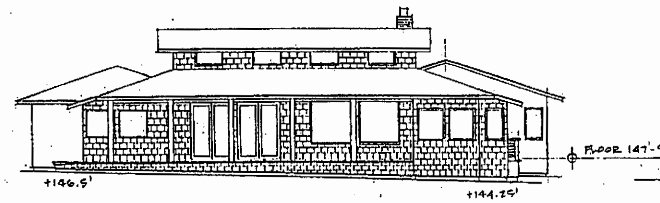
APN# 123-350-06



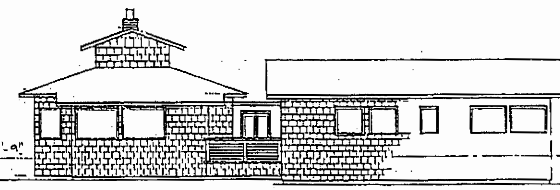

A NEW RESIDENCE FOR:
MICHAEL MARR AND JUDITH MALIN
2800 North Highway One
Albion, CA 95410
BUILDING DESIGNER:
BOB HARTSTOCK
PO BOX 319
36455 TIMBER RIDGE ROAD
THE SEA RANCH, CA 95497
phone 707.785.2036 fax 707.785.2125 fax
STRUCTURAL ENGINEER:
SUMMIT ENGINEERING, INC.
463 Aviation Blvd, Suite 200
Santa Rosa, CA 95403
707-527-0775 / 707-527-0212 FAX
1 SEPTEMBER '08
1 OF 4
NORTH
SITE PLAN
RESIDENCE
GRAVEL DRIVEWAY
PRIMARY OCEAN VIEW
BOUNDARY FENCE
PROPERTY LINE
BREAK LINE
EDGE OF EASEMENT
EDGE OF PAVEMENT
TURNOUT
EXISTING GATE TO BE REMOVED
NEW CULVERT
STATE HIGHWAY ONE
VICINITY MAP
NO SCALE
Albion
SITE



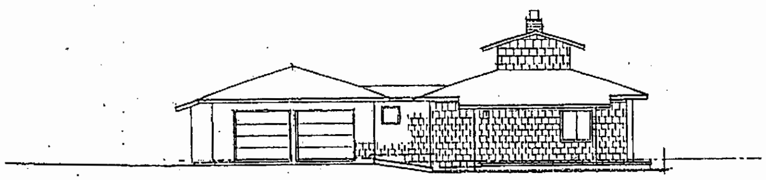
NORTHEAST ELEVATION



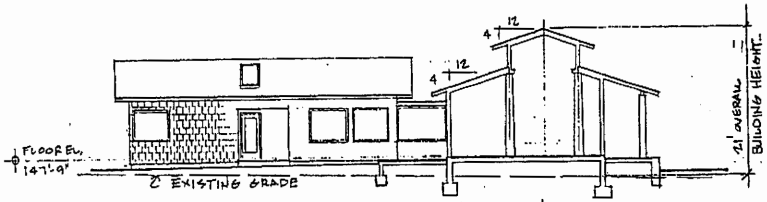
SOUTHWEST ELEVATION
SCALE 1/8"



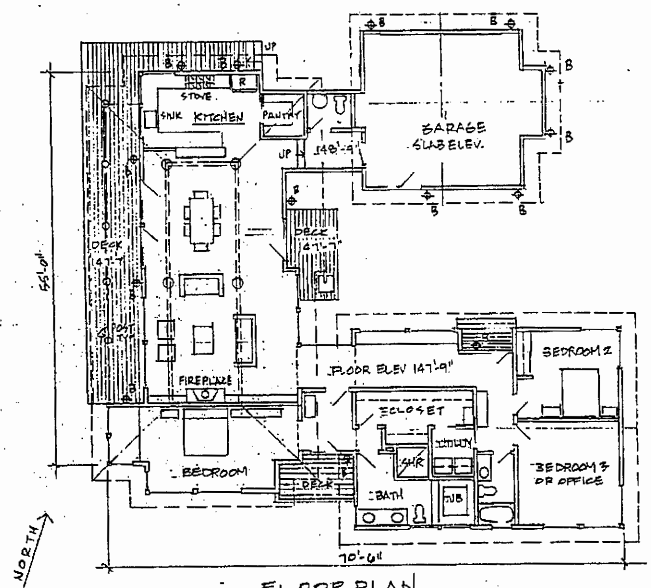
SOUTHEAST ELEVATION



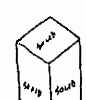
NORTHWEST ELEVATION



COURTYARD BUILDING SECTION
SCALE 1/8



FLOOR PLAN
SCALE 1/8"



FIXTURE B
DOWN LIGHT MADE WITH WOOD PLANKS

MAIN RESIDENCE:
EXTERIOR BUILDING MATERIALS:

1) Siding shall be redwood shingles with a clear finish.
2) Roof Shingle shall be a Class "A" Fiberglas shingle, color black or charcoal grey.
3) Windows shall be Milgard, Bronze Anodized Aluminum with clear glass.
4) All metal shall be painted black/charcoal grey, except copper.

MAIN RESIDENCE:
BUILDING SIZE:

HOUSE:	2,524 sq.ft.
GARAGE:	534 sq.ft.
COVERED PORCHES:	329 sq.ft.

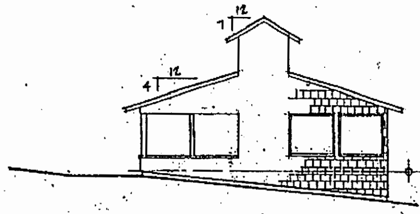
A NEW RESIDENCE FOR:
MICHAEL MARR AND JUDITH MALIN
2800 North Highway One
Albion, CA 95410

BUILDING DESIGNER:
BOB HARTSTOCK
PO BOX 319
36455 TIMBER RIDGE ROAD
THE SEA RANCH, CA 95497
phone 707.785.2036 fax 707.785.2125 fax

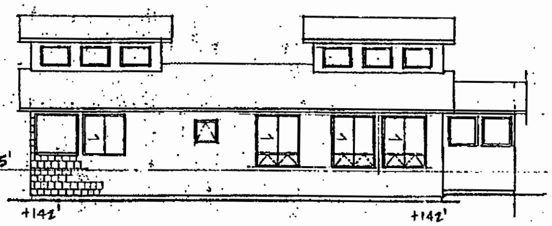
STRUCTURAL ENGINEER:
SUMMIT ENGINEERING, INC.
463 Aviation Blvd, Suite 200
Santa Rosa, CA 95403
707-527-0775 / 707-527-0212 FAX

14 SEPTEMBER 08

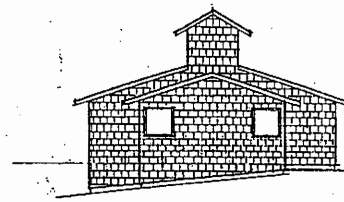
2 OF 3



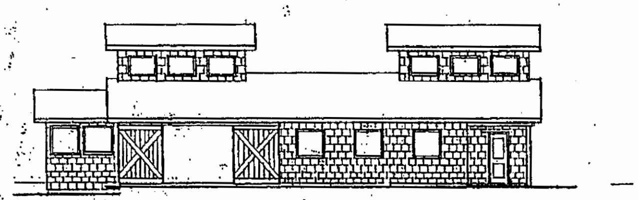
SOUTHWEST ELEVATION



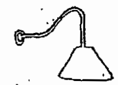
SOUTHEAST ELEVATION



NORTHEAST ELEVATION

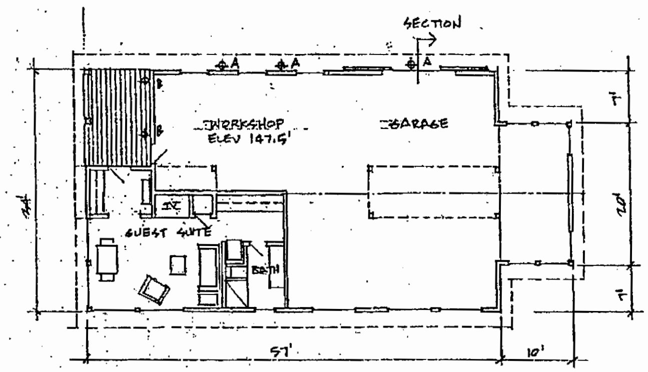


NORTHWEST ELEVATION

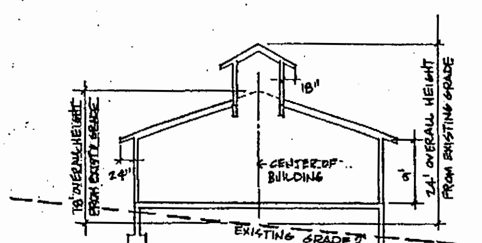


FIXTURE A
BLACK METAL ARM WITH HOOD

FIXTURE B
DOWN LIGHT MADE WITH WOOD PLANKS



GARAGE/WORKSHOP/
GUEST SUITE FLOOR PLAN
SCALE 1/8"



BUILDING SECTION
SCALE 1/8"

BUILDING 2
GARAGE/WORKSHOP/GUEST SUITE
EXTERIOR BUILDING MATERIALS:

1) Siding shall be redwood shingles with a clear finish.
2) Roof Shingle shall be a Class "A" Fiberglas shingle, color black or charcoal grey.
3) Windows shall be Milgard, Bronze Anodized Aluminum with clear glass.
4) All metal shall be painted black/charcoal grey, except copper.

BUILDING 2
GARAGE/WORKSHOP/GUEST SUITE
BUILDING SIZE:

WORKSHOP/GARAGE:	1,516 sq.ft.
GUEST SUITE:	501 sq.ft.
COVERED PORCH:	121 sq.ft.
TOTAL:	2,138 sq.ft.

A NEW RESIDENCE FOR:
MICHAEL MARR AND JUDITH MALIN
2800 North Highway One
Albion, CA 95410

BUILDING DESIGNER:
BOB HARTSTOCK
PO BOX 319
36455 TIMBER RIDGE ROAD
THE SEA RANCH, CA 95497
phone 707.785.2036 fax 707.785.2125 fax

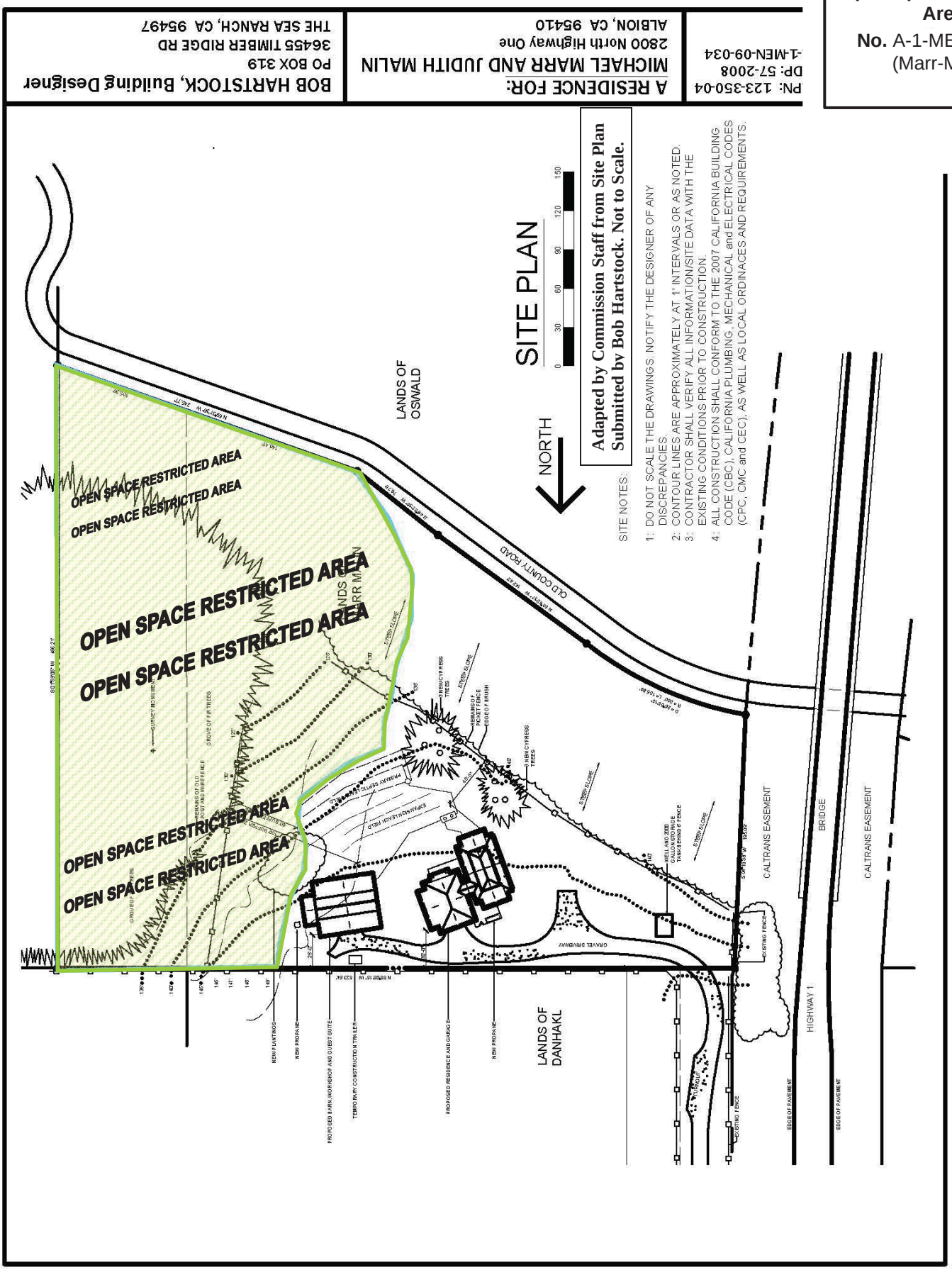
STRUCTURAL ENGINEER:
SUMMIT ENGINEERING, INC.
463 Aviation Blvd. Suite 200
Santa Rosa, CA 95403
707-527-0775 / 707-527-0212 FAX

1 SEPTEMBER 08
3 OF 3

EXHIBIT NO. 9

Open Space Restricted Area

No. A-1-MEN-09-034 (Marr-Malin)



=Area Subject to Open Space Restrictions Pursuant to Special Condition No. 3
Marr-Malin Property
Albion, California

BOB HARTSTOCK DESIGNER

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

bobhart@mcn.org

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

MEMO

TO: Bob Merrill or Tamara DATE: 28 June 2011

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

PROJECT: Marr/Malin residence, 2800 Highway One, Albion

BOB: Last week you asked a few questions about the lot in an email dated Wednesday June 22, 2011.

Specifically:

1) Lot Legality…..I believe you have all the information I provided to support the legality of the lot and you will be speaking with the CCC attorneys.

2) Rangeland/ Ag land. Last week I sent a memo detailing my conversations with the NRCS and the rating of "Prime" Ag land. According to their rating system, the Marr/Malin land is not prime ag land, nor suitable for agriculture according to USA standards. See memo for specifics.

Recently we spoke with an older resident of Albion whom once owned the property. According to his records, his family leased the land with their adjacent

land holdings for cow grazing from the late 1970's to the late 1990's. At the time, the cows grazed approximately 2 acres of the property. Fencing (still existing) kept the cows off the highway….and off the steep slopes along the south and south east property. Marr/Malin bought the property in 2005. Shortly after that, the adjacent property sold and the current owner constructed a new fence bordering his 300 +/- acre property. In 2006 he constructed a fence along the common property lines and grazes the land to a herd of cows. Number of animals has not been disclosed. The Owner lives in southern California but maintains a residence and barn on the east side of the land. He currently leases the property to another rancher.

Because of the adjoining property fence, we believe the Marr/Malin development will have no impact on the neighbor's property. The common property fence will separate the cows from the Marr residence and driveway. And offer a second impediment from animals wandering on highway one.

Because of the small size of the Marr/Malin property, it is not feasible to graze animals on their land. Less than 2 acres have slopes of 5% or less. According to a report from the University of Arizona, College of Agriculture 11/2004, (assuming 450 lbs of forage/ acre, far below the USDA average), one 1000 lb cow could graze 2 acres in 15 days. Beyond that, hay and water would have to be trucked in, on a regular basis.

Because of the soils types, it cannot support agriculture without irrigation.
And NCRS does not promote changing the soil rating by irrigation. It is Mikes and Judys intention to live lightly on the land and leave the native grasses, shrubs and trees as is. That is one of the reasons they bought the land.

3) Alternative driveway approach and location.

We approached the adjacent neighbor, John Danhakl about a driveway easement through his property, accessing from Albion Road. His short, concise answer was NO! Actually, HELL NO! He could not understand the logic of constructing a

driveway of considerable length that would transverse his lands and interfere with his grazing operations. We concur that this concept would not only damage the pastoral setting, but also interfere with the daily grazing schedules of the cows and would place the cows in harms way….by vehicle traffic.

The current driveway has minimal visibility from highway one, has an established gate from highway one, is supported by Caltrans and meets the safety rules of Caltrans codes and CalFire fire safe standards and the Mendocino/Coastal rules. We believe the current driveway with mitigations is far less damaging to the land. And protects the environment.

Thanks for your help.

BOB HARTSTOCK, Designer

cc: Marr/Malin

(3 of 5)

BOB HARTSTOCK DESIGNER

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

bobhart@mcn.org

TRANSMITTAL

TO: Robert Merrill, District Manager
COMPANY: CALIFORNIA COASTAL COMMISSION
North Coast District Office
710 E Street, Suite 200
Eureka, CA 95501
PROJECT: CDP #57-2008
Michael Marr & Judith Malin
Commission Appeal No. A-1-MEN-09-034

DATE: 3 March 2011

Dear Mr. Merrill:
I would like to follow up on a comment you made during our last phone call on February 9th, 2011. You questioned if we need to bring the elevation down to support the wetland expansion as proposed for the loss of wetlands. Upon discussion with our consulting Botanist, Playalina Nelson we believe this issue has been address thoroughly in our 2010 Wetland Mitigation Plan, with a focus towards increasing the wetland function in the wetland and the buffer. See section 3.1 Mitigation in the report.

In brief, Ms Nelson states (section 3.2b) that the objective of the wetland enhancement for this project is to remove invasive nonnative plants. And like the impacted wetland, there is no standing water in this area...and that hydrology is not a factor in measuring the success of enhancement.

We ask that you and the CC botanist please refer to this important section in the wetland Mitigation Plan prepared by Ms Nelson.

Thank you for your consideration.

Also, I would like to follow up with the time line of reviewing our project and scheduling a de novo hearing. Time is of the essence and flying by too quickly. We see that the March agenda has been established without our hearing. Could you please get our project on the next agenda?

Sincerely,
BOB HARTSTOCK,
Building Designer/Applicant

Gedik, Tamara@Coastal

From: Judith Malin <judy.malin@gmail.com>
Sent: Wednesday, September 05, 2012 2:13 PM
To: Merrill, Bob@Coastal
Cc: Mike Marr; Bob Hartstock; Gedik, Tamara@Coastal
Subject: RE: A-1-MEN-09-034 Marr and Malin de novo Sept Agenda

To California Coastal Commission North Coast District Manager, Robert Merrill:

We are writing to follow up on our telephone conversation earlier today with you.

Pursuant to Section 13073(a)of the California Coastal Commission's Administrative Regulations, we are seeking to exercise our one right to a postponement of our de novo hearing currently scheduled for September 13, 2012.

Our request for postponement is submitted here in writing as required in Section 13073(c). We acknowledge that our request for postponement waives our right to any applicable time limits for Commission action on our application.

We would like to reschedule our hearing to the Commission's October agenda in San Diego. We understand that our postponement cannot be made conditional upon being rescheduled for any particular meeting. However, we hope you will consider our request and let us know soon whether our request can be accommodated.

Thank you so much for your consideration.

Sincerely,

Judith Malin and Michael Marr

401-683-9362
43 Hillside Ave
Portsmouth, RI 02871

judy.malin@gmail.com
whitey@whiteymarr.com

BOTANICAL SURVEY AND ESHA ASSESSMENT

FOR
2800 HIGHWAY ONE
ALBION, CALIFORNIA
MENDOCINO COUNTY
APN 123-350-04

prepared by:
William Maslach
32915 Nameless Lane
Fort Bragg, California 95437
(707) 964-4547
geobotanical@mcn.org

November 2007
revised
02.2009

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1.0 Summary

A survey on an approximately 4-acre parcel zoned rural-residential and adjacent access easement was conducted to locate rare plants, plant communities and wetlands within the project area. An occasionally-used unpaved road exists on the Project Site. Two special-status plant species, one special-status plant community, and a California Coastal Act wetland occur on the parcel. One species is on a watch list and the other is considered rare.

The construction of a paved driveway apron and crushed rock access road will result in the fill of approximately 10,100 ft^2 (~0.23 acres) of California Coastal Act wetland. Much of the wetland is caused by impoundment of subsurface water at the base of the Highway 1 fill prism, causing an unnatural condition on the site. Essentially, the existing alignment of Highway 1 bisects a wet meadow, and the construction of the highway now impedes the natural subsurface flow of the water, causing the water to collect and spread along the uphill side of the road prism.

The entrance road in the proposed location is the least environmentally damaging alternative and it avoids the small stand of rare plants. The alternative is to remove at least 900 yd^3 (~ 100 truckloads) of native soil occurring on the eastern cut bank of the Highway 1 through-cut north of the Salmon Creek Bridge. This would create the line-of-sight necessary for leaving the driveway as required by CalTrans. To mitigate for the loss of the Coastal Act wetland mitigation at 2:1 is proposed. Mitigation is primarily the enhancement of the existing wetland through the removal of exotic vegetation and vegetation management to enhance native vegetation, including special-status plants.

2.0 Background/Project Description

On April 17, May 3, and June 20, 2005 and May 6, June 18, and July 7, 2007 botanical surveys were conducted on the parcel located at 2950 Highway One (approximately 4 acres) (APN 123-350-04) Albion, California ("Project Site") (Figure 1). The purpose of the study was to describe the existing vegetation communities, survey the parcel for special-status (rare) plants, plant communities, and wetlands, and recommend appropriate mitigation measures that help to reduce the impacts to wetland-, riparian-, and rare plant- and plant community-buffers, which are considered Environmentally Sensitive Habitat Areas (ESHA's) under the Mendocino County Local Coastal Plan (Mendocino County, 1991).

The Project Site is within the California Coastal Zone. The botanical/ESHA survey was conducted as a condition of the permit necessary to build within the Coastal Zone in Mendocino County. The development project consists of a main residence (~2,100 ft^2), detached garage (~400 ft^2), and a detached workshop (~1,100 ft^2), septic and leach field, and driveway.

3.0 Project Site Description

The Project Site is an approximately 4-acre parcel zoned rangeland, east of Highway 1 and within the California Coastal Zone. It is located at 2950 Highway One Albion, California (APN 123-350-04). It occurs on the SW ¼ of Section 28, Township 16 N, Range 17 W of the Mount Diablo Base Meridian.

The Project Site vegetation is predominantly a non-native grassland composed of exotic grasses and herbs such as sweet vernal grass (*Anthoxanthum odoratum*), bent grass (*Agrostis stolonifera*) rough cat's ear (*Hypochaeris radicata*), and vetch (*Vicia sativa*). Some northern coyote brush scrub occurs on the south-facing slope at the south end of the parcel. Dominant species are coyote bush (*Baccharis pilularis*),

poison oak (*Toxicodendron diversilobum*), sword fern (*Polystichum munitum*), and hedge-nettle (*Stachys ajugoides*). A grand fir forest (*Abies grandis*) occurs on the eastern side of the parcel and has Doug-fir (*Pseudotsuga menziesii*) and grand fir as dominant trees.

A seasonal Coastal Act wetland occurs mainly along the entrance road that parallels Highway 1. The vegetation is predominantly prickly coyote thistle (*Eryngium armatum*), bent grass (*Agrostis stolonifera*), sweet vernal grass (*Anthoxanthum odoratum*) and sedge (*Carex obnupta*).

Topography is mostly gently sloping with steep hillsides at the south and east of the parcel.

Improvements to the Project Site include an occasionally-used unpaved road and a well.

4.0 Methods

4.1 Botanical Survey

A field survey for botanical and wetland resources was conducted on the Project Site on April 17, May 3, and June 20, 2005 and May 6, June 18, and July 7, 2007. The survey protocol was based on Guidelines for Assessing the Effects of Proposed Developments on Rare, Threatened, and Endangered Plants and Plant Communities developed by James Nelson (CDFG 2000). The rare plants and plant communities considered in the survey are the native plants of limited abundance in California with known occurrence or distribution in Mendocino County, and were derived from the following lists:

- species listed or proposed for listing as threatened or endangered under the federal Endangered Species Act;
- species that are candidates for possible future listing as threatened or endangered under the federal Endangered Species Act;
- species listed or proposed for listing by the State of California as threatened or endangered under the California Endangered Species Act;
- plants listed by the California Native Plant Society (CNPS) as “presumed extinct” in California (List 1A);
- plants considered by CNPS to be “rare, threatened, or endangered in California” (Lists 1B and 2);
- plants listed by CNPS as plants about which more information is needed to determine their status and plants of limited distribution (Lists 3 and 4), which may be included as special-status species on the basis of local significance or recent biological information;
- plant communities listed in the California Natural Diversity Database;
- plants of regional or specific interest not on any list above.

These special-status plants were further segregated regionally based on known occurrence on the USGS 7.5’ quadrangle (Albion) for the Project Site and the adjacent quadrangles (Mendocino, Elk, Mallo Pass Creek and Mathison Peak). The regional assessment utilized the California Native Plant Society’s (CNPS) electronic inventory (CNPS 2007) and the California Department of Fish and Game’s (CDFG), Natural Diversity Data Base Rare Find (CDFG 2007). These special-status species and all other species derived from the aforementioned lists, their associated habitats, and their potential for occurrence in the project area are listed in Table 1. Vegetation descriptions are based on Sawyer and Keeler-Wolf (1995), Holland (1986), and California Department of Fish and Game (2003).

4.1.1 Blooming Period

A floristic and seasonally appropriate survey was conducted in the field at the time of year when rare, threatened, or endangered species are both evident and identifiable for all species expected to occur in the Study Area.

4.2 WETLAND DELINEATION

A wetland delineation study was conducted to describe the location and extent of waters, including wetlands, which may be considered jurisdictional by the U.S. Army Corps of Engineers (Corps) under Section 404 of the Clean Water Act on the Project Site. Wetland vegetation, hydrology, and soils were examined to determine the presence of potential wetlands as defined by the Corps of Engineers.

The Clean Water Act gives the Corps jurisdiction over "Waters of the United States," which include, in part: lakes, rivers, streams (including intermittent streams) and wetlands. Under the Clean Water Act, the term "wetlands" means:

> *… those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.* (33 CFR § 328.3)

The Corps has published a wetland delineation manual including data sheets to use in the determination of the presence or absence of wetlands. These procedures and delineation results are presented in this report.

This delineation study has been conducted in accordance with the *U.S. Army Corps of Engineers Wetlands Delineation Manual* (Corps Manual) (Environmental Laboratory 1987). This study evaluated the presence or absence of indicators of three wetlands parameters described in the Corps Manual. The three parameters used to determine the presence of wetlands are (1) hydrophytic vegetation, (2) hydric soils, and (3) wetland hydrology. According to the Corps Manual (1987):

> *"…*[*E*]*vidence of a minimum of one positive wetland indicator from each parameter (hydrology, soil, and vegetation) must be found in order to make a positive wetland delineation."* (p. 12)

The California Coastal Commission, under the California Coastal Act, regulates wetlands in the California Coastal Zone. The Commission's criteria for a wetland definition is more general than the Corps' – depending on the site, one or two parameters may only be needed for a wetland.

Prior to conducting field studies, available reference materials were reviewed, including the Mendocino County Soil Survey, Western Part (Natural Resource Conservation Service, 2001). The Project Site was field-inspected on June 18, 2007 for the areas that had the potential to meet the Corps and Coastal Act wetland definitions.

4.2.1 Vegetation

The indicator status assigned to a species designates the probability of that species occurring in a wetland. A species with an indicator of OBL, FACW, or FAC (excluding FAC-) is considered to be typically adapted for life in a wetland (hydrophytic vegetation). A species indicator of FAC-, FACU and NL

determines an upland species. The wetland occurrence probability and abbreviations utilized in the lists are presented below.

INDICATOR STATUS	DESCRIPTION	OCCURRENCE IN WETLANDS
OBL	obligate wetland plants	>99%
FACW	facultative wetland plants	67-99%
FAC	facultative plants	34-66%
FACU	facultative upland plants	1-33%
UPL	obligate upland plants	<1%
NI	no indicator (insufficient information) for the region (rated neutral)	-
NL	not listed (rated upland)	-
plus sign (+)	frequency toward higher end of a category	-
minus sign (-)	frequency toward lower end of a category	-
asterisk (*)	indicates tentative assignment based on limited information	-

The dominant vegetation at each sample point was noted and evaluated for prevalence of hydrophytes. Indicator status follows USFWS (1996).

4.2.2 Hydrology

Wetland hydrology is a term which encompasses hydrologic characteristics of areas that are periodically inundated or saturated within 12 inches of the surface at some time during the growing season. Recorded data can be used when available to determine wetland hydrology.

When studies are conducted at a time of year when surface water, ground water, or saturated soils can not be observed, evidence of wetland hydrology is based on observation of the hydrologic indicators described in the 1987 *Corps Manual*. Evidence of wetland hydrology can include direct evidence (primary indicators), such as visible inundation or saturation, surface sediment deposits, and drift lines, or indirect indicators (secondary indicators), such as oxidized root channels and algal mats. If indirect or secondary indicators are used, at least two secondary indicators must be present to conclude that an area has wetland hydrology. The parcel was examined for these hydrologic indicators. The presence of any primary or secondary wetland hydrologic indicators was noted at each sample point.

4.2.3 Soils

The Natural Resource Conservation Service defines a hydric soil as:

> "*A hydric soil is a soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part.*"
>
> (Federal Register July 13, 1994, US Department of Agriculture, Natural Resource Conservation Service.)

Soils formed over long periods of time under wetland (anaerobic) conditions sometimes possess characteristics that indicate that they meet the definition of hydric soils.

At each sample point a soil pit was dug to a minimum of a 20-inch depth where possible. In each pit distinct soil layer depths were noted and their matrix and mottle colors (if present) were compared to the Munsell soil color chart (GretagMacbeth 2000) for color appearance (hue), intensity (value), and shade (chroma). Redoximorphic features and soil texture were noted.

5.0 Survey Results

5.1 Documented Occurrences

The special-status plants, communities, and wetlands with regional known occurrence having potential habitat in the project site were surveyed for presence (Tables 1 and 2). Species without potential habitat in the Project Site were considered, but surveys were focused on those with potential habitat. The survey results of detected special-status species, communities, and wetlands were recorded (Table 3) and drawn on a map of the Project Site (Figure 1). Species that are listed in Tables 1 and 2 but not below in Table 3 were not detected.

Table 3. Wetlands and Special-Status Plants and Plant Communities Documented on the Project Site.

Scientific Name	Common Name	Status	Number of Occurrences	Population Size	ESHA
Lotus formosissimus	coastal lotus	CNPS List 4.2	1 - scattered	~ 150-200 individuals	No
Sidalcea calycosa ssp. *rhizomata*	Point Reyes checkerbloom	CNPS List 1B.2	1	~ 75 individuals	Yes
-	grand fir forest	G1 / S1.1	1	~ 1.1 acres on Project Site (part of a larger forest up canyon)	Yes
-	northern coyote brush scrub	G4 / S4	1	~ 0.8 acres on Project Site (vegetation extends beyond parcel)	No
-	non-native grassland	G4 / S4	1	~ 1.5 acres on Project Site (vegetation extends beyond parcel)	No
-	Coastal Act wetland	-	1	~ 1.07 acres on Project Site (wetland extends beyond parcel)	Yes

Vegetation and special-status plant descriptions follow.

Sidalcea calycosa ssp. *rhizomata* – Pt. Reyes checkerbloom is a perennial plant with pink to light-purple flowers that bloom from April to August (Figures 8-9). It is found in wet meadows and freshwater marshes near the coast. It has a wetland indicator status of "obligate" (USFWS 1996), and is therefore usually found where there is standing water or thoroughly saturated soil for extended periods throughout the year. Its leaves are distinctive and can be recognized when the plant is not blooming.

A stand approximately 5' by 15' with approximately 75 individuals occurs in the wettest part of the seasonal wetland at the base of Highway 1. Construction of the paved driveway apron and the rocked entrance road will avoid the stand of Point Reyes checkerbloom.

Lotus formosissimus – Coast lotus (*Lotus formosissimus*) is a sprawling, multi-stemmed perennial herb, about 20-50 cm long, with compound, pinnate leaves. The pink-magenta and yellow pea-like flowers are showy and arranged in umbels.

The presence of coastal lotus was strongly associated with the mowed entrance road. Mowing eliminates the thick cover of grass that reduces the amount of light coastal lotus can receive. It typically prefers habitat that is low-growing and damp. Several hundred individuals occur scattered throughout the entrance road area and those areas to the side where mowing has occurred.

Coast lotus is a CNPS List 4 species and not considered an ESHA in the Coastal Zone but it is presumed to be one of the larval foodplants of the lotis blue butterfly *(Lycaeides idas lotis*), a butterfly that is listed as endangered by the US Fish and Wildlife Service (USFWS 1985). Although habitat requirements of the butterfly are poorly known, is has been found in association with wet meadows and sphagnum-willow bogs adjacent to the pygmy forests of coastal Mendocino County. Since 1977, the lotis blue has been known from only one boggy area about 2.5 miles north of the town of Mendocino. However, historical records suggest it has been found at several coastal localities in Mendocino and Sonoma counties, and possibly in northern Marin County (USFWS 1985).

Although the reasons for the lotis blue's decline is not known, it is likely related to the changes in vegetation that have occurred over the past quarter century at the butterfly's last known occurrence (Aarnold 1991) . If the coast lotus is the butterfly's larval food plant, indeed, local butterfly populations would show a decline where open wet meadows become brushy and eventually wooded. Coast lotus is often found in recently cleared areas, ditches, or other areas that may be temporarily mesic due to disturbance. Through the natural succession of a previously disturbed site, larger, woody shrubs replace the abundance of annual and perennial forbs such as coast lotus.

One scattered stand of coast lotus occurs on the Project Site in the seasonal wetland, and primarily where on the entrance road where vehicles have compacted the vegetation and mowing has reduced the abundance of perennial exotic grasses.

Based on the lotis blue range and habitat, the Project Site does not appear to be suitable habit for the butterfly. The site is 9 miles south of the last know occurrence of lotis blue. The habitat of the site is an open meadow with wetter areas of slough sedge (*Carex obnupta*) and forbs, with an increase in hydrology at the base of the Highway 1 berm where the area becomes more shrubby with *Juncus* spp. and coyote brush (*Baccharis pilularis*). It is not habitat typical of the pygmy forest or its edges.

During the botanical surveys, if any blue butterfly was seen, which would likely be Acmon's blue, it would have been recorded. On the Project Site, no Acmon's blues or other unidentifiable blue butterflies were observed.

Coast lotus is ranked as List 4 (lowest priority) by the California Native Plant Society. Avoidance is recommended, but buffers are not drawn around the occurrence. The plant is located within the wetland identified in Figure 1. Buffers were not drawn around the occurrences of this species. Some areas of coast lotus will be covered by crushed rock, and other areas will likely become habitat for coast lotus as a mowing schedule is implemented. This mowing, will be, in part, mitigation for the construction of the road and loss of seasonal Coastal Act wetland and coast lotus.

Grand Fir Forest – A forest of grand fir grand fir (*Abies grandis*) with occasional Doug-fir (*Pseudotsuga menziesii*) occurs on the eastern side of the parcel and onto the adjacent parcels. Sword fern is a common herbaceous plant throughout the forest.

Buffers are drawn around the outer edge of the forest for this plant community that is considered an ESHA. No impact to this plant community will occur.

Wetland – Approximately 1.07 acres of California Coastal Act wetland were documented on the Project Site. The wetland was based on the prevalence of hydrophytic plants and some areas of wet soils.

Dominant plants included *Eryngium armatum, Carex obnupta,* and *Agrostis stolonifera*. Figures 1-2 illustrate the wetland and the entrance road. Wetland field data sheets are included in Appendix D.

Although there are Coastal Act wetlands upslope of the proposed driveway area, the wetlands that form at the base of Highway 1 exist, in part, due to the impoundment of subsurface and seasonal surface water at the base of the fill prism used to construct Highway 1. This artificial topography increases the spatial extent and degree of saturation along the highway. Additionally, the mowing along the access road creates an unnatural element to the wetland. However, it is the artificial highway berm and seasonal mowing that actually enhance the wetland by increasing its size and species composition – without the mowing, there would be fewer wetland forbs, including coast lotus (*Lotus formosissimus*). The Point Reyes checkerbloom has become established in the lowest area at the base of the highway berm. The occurrence of the special-status plants increase the biological value of the wetland, but there is a significant amount of disturbance that allows the wetland to persist as it does.

The wetland survey resulted in the seasonally wet meadow being classified as a Coastal Act wetland. Results of the sample pits are listed in Table 4 and their location and the extent of the wetland is depicted in Figure 1. Adjacent wetland areas are mapped based on similar wetland vegetation. Those wetlands identified from this delineation are indicated as such in Figure 1 (Also see Figures 1-7.

Table 4. Summary of Wetland Delineation Sample Pits.

PIT	PLANT COMMUNITY	DOMINANT SPECIES	WETLAND SOIL	WETLAND HYDROLOGY	WETLAND VEGETATION	CALIFORNIA COASTAL ACT	US CLEAN WATER ACT	ACRES
1	Seasonally wet meadow	*Eryngium armatum* *Agrostis stolonifera* *Anthoxanthum odoratum*	Yes	Yes	Yes	Yes	No (isolated due to disturbance)	~ 1.07
2	Non-native grassland/meadow	*Agrostis stolonifera* *Anthoxanthum odoratum*	No	No	No	No	No	
3	Seasonally wet meadow	*Carex obnupta* *Holcus lanatus* *Agrostis stolonifera*	Yes	Yes	Yes	Yes	No (isolated due to disturbance)	

Northern Coyote Brush Scrub – This plant community occurs on the south-facing slope at the southern end of the parcel above Salmon Creek. It is comprised of coyote brush (*Baccharis pilularis*) as a dominant occurring with sword fern (*Polystichum munitum*), poison oak (*Toxicodendron diversilobum*) and hedge-nettle (*Stachys ajugoides*).

It is not considered an ESHA and buffers are not drawn around the occurrence. The proposed development will not impact the vegetation, which is approximately 70' away and on the slope.

Non-Native Grassland – The dominant vegetation community on the Project Site is perennial non-native grassland comprised of exotic grasses and herbs such as sweet vernal grass (*Anthoxanthum odoratum*), bent grass (*Agrostis stolonifera*) rough cat's ear (*Hypochaeris radicata*), and vetch (*Vicia sativa*).

It is not considered an ESHA and buffers are not drawn around the occurrence. The proposed development will not impact the vegetation, which is approximately 70' away and on the slope.

5.2 FLORISTIC SURVEY

A floristic survey was completed for the surveyed area; all plants encountered were documented (Appendix B). Taxonomy follows *The Jepson Manual* (Hickman 1993).

6.0 Discussion and Mitigation

All locations of wetlands, rare plants, and plant communities encountered were drawn on the Project Site map (Figure 1) and 100-foot and 50-foot buffers were placed around these locations. The driveway apron and road will result in the fill of approximately 0.23 acres of seasonal Coastal Act wetland. No impact to the rare plant, Point Reyes checkerbloom is expected to occur as a result of the construction. The workshop and the septic system are within 100', but beyond 50', of a grand fir forest ESHA, and no direct or indirect impact to the forest will occur.

A portion of the existing road occurs at the base of a hill and is considered a wetland under the California Coastal Act. This portion of the road also contains scattered individuals of coastal lotus (*Lotus formosissimus*). From the site visits, it appears that current uses of the entrance road, at least, include mowing and occasional use by vehicles.

The Coastal Act wetland at the base of the hill and on the road is a naturally wet area for some portion of the year, but is also somewhat influenced by the maintenance of the road. The seasonal mowing allows for a change in the composition of plants from the exotic perennial grasses to some of the native forbs. Some water was ponding in vehicle ruts in the road and has created more wet areas for wetland-adapted plants. The continued maintenance of mowing will not have a negative impact on the List 4 coastal lotus as its preferred habitat on the Project Site is the road and the road edges. Stands of coastal lotus would likely increase if mowing is increased beyond the edge of the road.

Placement of the proposed road outside of the 100-foot buffers and 50-foot ESHA buffers is not feasible given the alternative, which is to lower in elevation the existing cut bank of the western side of the Highway 1 thru-cut (where a road is created through a hill). This alternative would result in significant landscape modifications and render the project economically unfeasible.

Land Use Plan Policy 3.1-7 (Mendocino County, 1985) describes the purpose of ESHA buffers: "[…] to provide for a sufficient area to protect the environmentally sensitive habitat from significant degradation resulting from future developments." The same policy allows development within buffer areas for the same uses that would be permitted in the adjacent ESHA, provided: (1) the development is sited and designed to prevent impacts which would significantly degrade such areas; (2) it's compatible with the continuance of such habitat areas by maintaining their functional capacity and ability to be self-sustaining and to maintain natural species diversity; and (3) no other feasible site is available and mitigation is provided.

An analysis of the proposed project utilizing the ESHA development criteria in the Mendocino LCP Ordinance 20.496.020(A) through (4)(k) is presented in Table 4. Because the ESHA buffer is not considered a continuance of habitat for grand fir forest on the Project Site, the proposed septic system and shop will not degrade the resource by being located outside the 50' buffer from the grand fir forest. However, there will be impacts to a seasonal Coastal Act wetland through the construction of a driveway apron off Highway 1. There is no feasible, less damaging alternative to locating the approach and driveway in the proposed location. Moving it south reduces the CalTrans' requirement for line-of-sight for a driveway approach and moving it north only increases the length of driveway. Conditions and

mitigating measures for development within the buffer are given below and reasons for development within the buffer are given in Table 4.

Impact 1: The proposed construction of the paved driveway approach and crushed rock road will result in the loss of ~0.23 acres of seasonal Coastal Act wetland and it is within the buffer of Point Reyes checkerbloom and the wetland itself.

***Mitigation Measure 1a*: Enhance the quality of the disturbed wetland at the base of the Highway 1 berm to mitigate at a 2:1 ratio (~0.5 acres).**
Exotic plant species: Himalaya blackberry (*Rubus discolor*), periwinkle (*Vinca major*), and watsonia iris (*Watsonia bulbillifera*) will be removed over a 3 year period in the wetland at the base of the Highway 1 berm. A qualified botanist will submit a brief annual report to Mendocino County Planning and Building documenting the progress. Additionally, the entrance area along the road will be moved to promote the growth of native wetland forbs.

***Mitigation Measure 1b*: Use permeable surfaces for road surfaces.**
To reduce the potential for concentrated water runoff form leaving the proposed develop sites, a permeable surface such as crushed rock will be used in place of concrete or asphalt for the entrance road. However, it is necessary to pave the approach to the highway that will be created on the fill.

***Condition 1a*: Install temporary fencing to ensure grading and/or material storage does not occur in the rare plant area or wetland.**
Temporary fencing, such as orange plastic fencing or black silt cloth, will be placed on the edge of the ~25' buffer from the rare plants and all other areas in or near the wetland where construction will not occur.

***Condition2a*: Design the entrance road so that it is on the easternmost side of the access easement for approximately 150' past the Highway 1 approach.**
By making use of the easternmost side of the easement, a greater buffer is given to the Point Reyes checkerbloom and the wetter area of the seasonal wetland.

Potential Impact 2: The proposed development (workshop and septic system) within the buffer area may introduce levels of use not compatible with the long-term viability of the rare plants.

***Mitigation Measure 2a*: Planting of invasive landscaping plants will not occur.**
Landscaping within the ESHA buffers will not include any of the invasive plants in Appendix C that are commonly used in landscaping. They include the following species.

blue gum eucalyptus (*Eucalyptus globulus*)
jubatagrass or pampasgrass (*Cortaderia jubata* or *Cortaderia selloana*)
ivies: English ivy, Algerian ivy, or cape ivy (*Hedera caneriensis, Delairea odorata* or *Hedera helix*)
periwinkle (*Vinca major*)
cotoneaster (*Cotoneaster lacteus* or *Cotoneaster pannosus*)
Brooms: Bridal broom, French broom, Portuguese broom, Scotch broom or Spanish broom (*Retama monosperma, Genista monspessulana, Cytisus striatus, Cytisus scoparius* or *Spartium junceum*)

Table 5. Sec. 20.496.020 ESHA -- Development Criteria.
(A) Buffer Areas. *A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from degradation resulting from future developments and shall be compatible with the continuance of such habitat areas.*
(1) Width. *The width of the buffer area shall be a minimum of one hundred (100) feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning staff, that one hundred (100) feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width. New land division shall not be allowed which will create new parcels entirely within a buffer area. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent Environmentally Sensitive Habitat Area.* *Standards for determining the appropriate width of the buffer area are as follows:*
(1a) Biological Significance of Adjacent Lands. *Lands adjacent to a wetland, stream, or riparian habitat area vary in the degree to which they are functionally related to these habitat areas. Functional relationships may exist if species associated with such areas spend a significant portion of their life cycle on adjacent lands. The degree of significance depends upon the habitat requirements of the species in the habitat area (e.g., nesting, feeding, breeding, or resting).* *Where a significant functional relationship exists, the land supporting this relationship shall also be considered to be part of the ESHA, and the buffer zone shall be measured from the edge of these lands and be sufficiently wide to protect these functional relationships. Where no significant functional relationships exist, the buffer shall be measured from the edge of the wetland, stream, or riparian habitat that is adjacent to the proposed development.* Because development is proposed within the 50-foot ESHA buffer, wetland habitat was reviewed to determine if these habitat requirements existed beyond the current location of the plants. Some areas of wetland vegetation extend beyond the road easement and up the hill slope. These areas are functionally related to the wetland and were included in the wetland delineation. Areas with similar wetland vegetation outside of the wetland delineation area were mapped and the different method is indicated. This report addresses the placement of the unsurfaced road in the area mapped as a Coastal Act wetland and within its buffer. Land adjacent to the grand fir forest was examined for its functional relationship and biological significance.

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Table 5. Sec. 20.496.020 ESHA -- Development Criteria.

(1b) Sensitivity of Species to Disturbance. *The width of the buffer zone shall be based, in part, on the distance necessary to ensure that the most sensitive species of plants and animals will not be disturbed significantly by the permitted development. Such a determination shall be based on the following after consultation with the Department of Fish and Game or others with similar expertise:*

(1b-i) Nesting, feeding, breeding, resting, or other habitat requirements of both resident and migratory fish and wildlife species;

(1b-ii) An assessment of the short-term and long-term adaptability of various species to human disturbance;

(1b-iii) An assessment of the impact and activity levels of the proposed development on the resource.

The site is not aquatic (stream or pond) and therefore does not support any fish species. Available wildlife nesting habitat is minimal, especially where there is seasonal mowing along the existing road. Wildlife species that may use this habitat for nesting or foraging include birds that prefer to nest in low shrubs. Small or large mammals may pass through these buffer areas but there is no habitat such as dens or cavities.

Although there will be no significant disturbance to any wildlife potentially using the buffer zone, the concern is the sensitivity of the wetland habitat to disturbance. That is, "Can this habitat persist if there is development within the buffer and the wetland?" To answer this question, the extent and quality of the wetland habitat was examined.

Although there are Coastal Act wetlands upslope of the proposed driveway area, the wetlands that form at the base of Highway 1 exist, in part, due to the impoundment of subsurface and seasonal surface water at the base of the fill prism used to construct Highway 1. This artificial topography increases the spatial extent and degree of saturation along the highway. Additionally, the mowing along the access road creates an unnatural element to the wetland. However, it is the artificial highway berm and seasonal mowing that actually enhance the wetland by increasing its size and species composition – without the mowing, there would be fewer wetland forbs, including coast lotus (*Lotus formosissimus*). The Point Reyes checkerbloom has become established in the lowest area at the base of the highway berm.

The occurrence of the special-status plants increase the biological value of the wetland, but there is a significant amount of disturbance that allows the wetland to persist as it does. By constructing an unpaved entrance road, the ecological processes of the wetland will still persist. Although there will be a loss of wetland through the entrance road construction, mitigation measures to enhance the wetland are proposed. These will consist of removing exotic species and allow for continued mowing along the road in the wet areas.

No long-term threats to the wetland are expected as there will be no significant change in the hydrological regime. By implementing mitigation measures that include the removal of exotic species in the wetland at the base of the berm, the native plant diversity in the wetland is expected to increase. Continued mowing of the wetland along the road will allow for smaller wetland forbs to persist. Perhaps the greatest long-term threat to the grand fir forest is the escape of weedy, non-native plants from landscaped areas. A list of plants to avoid using is included as a condition of the permit.

To further assess the sensitivity of the species to disturbance, the impact and activity level of the proposed development was evaluated. The proposed development consists of a single family residence, workshop, and driveway. There is no threat of damaging the grand fir forest by construction activities related to the shed occurring more than 50' from the forest edge. To protect the Point Reyes checkerbloom during the road construction, temporary fencing will be installed to protect the plants.

(1c) Susceptibility of Parcel to Erosion. *The width of the buffer zone shall be based, in part, on an assessment of the slope, soils, impervious surface coverage, runoff characteristics, and vegetative cover of the parcel and to what degree the development will change the potential for erosion. A sufficient buffer to allow for the interception of any additional material eroded as a result of the proposed development should be provided.*

Because all development is proposed in the flatter areas of the parcel, the susceptibility of the parcel to erosion is greatly minimized. The proposed road is situated as far as possible from the wetland in the area where the wetland is of higher biological value (i.e. stronger wetland indicators). The road will be constructed of road base and crushed rock and will not be an impervious surface except at the Highway 1 approach where it is necessary to pave to increase stability of the approach and therefore reduce wear and subsequent erosion. A 60' culvert will be placed under the highway approach to facilitate surface flow of water that is currently impounded by the Highway 1 fill prism. The permeable road surface will allow groundwater recharge where it is proposed in the wetland and within the buffer areas.

Table 5. Sec. 20.496.020 ESHA -- Development Criteria.
(1d) Use of Natural Topographic Features to Locate Development. *Hills and bluffs adjacent to ESHA's shall be used, where feasible, to buffer habitat areas. Where otherwise permitted, development should be located on the sides of hills away from ESHA's. Similarly, bluff faces should not be developed, but shall be included in the buffer zone.* The developable portion of the parcel is a flat meadow; however, access to the parcel must cross the wetland paralleling Highway 1. The development makes use of the flat area on the parcel for locating a residence and it makes use of the existing access road that occurs in the wetland. CalTrans requires a 600' line-of-sight for any proposed driveway leaving Highway 1. An alternate site would require carving into the existing through-cut created during the Highway 1 construction. This alternative is not pursued because of the extensive excavation.
(1e) Use of Existing Cultural Features to Locate Buffer Zones. *Cultural features (e.g., roads and dikes) shall be used, where feasible, to buffer habitat areas. Where feasible, development shall be located on the side of roads, dikes, irrigation canals, flood control channels, etc., away from the ESHA.* The configuration of the proposed road makes use of the existing cultural features to the greatest extent feasible. Highway 1 is built on an artificial berm with the eastern edge of the berm sloping downward towards the wetland. The entrance road crosses the wetland at the base of the berm and then makes use of an existing ranch road that parallels the Highway 1 berm.
(1f) Lot Configuration and Location of Existing Development. *Where an existing subdivision or other development is largely built-out and the buildings are a uniform distance from a habitat area, at least that same distance shall be required as a buffer zone for any new development permitted. However, if that distance is less than one hundred (100) feet, additional mitigation measures (e.g., planting of native vegetation) shall be provided to ensure additional protection. Where development is proposed in an area that is largely undeveloped, the widest and most protective buffer zone feasible shall be required.* The development is proposed in an area that is largely undeveloped – some of the surrounding lots are rural residential, range land, and forest production. Some nearby parcels are between 2 and 20 acres.
(1g) Type and Scale of Development Proposed. *The type and scale of the proposed development will, to a large degree, determine the size of the buffer zone necessary to protect the ESHA. Such evaluations shall be made on a case-by-case basis depending upon the resources involved, the degree to which adjacent lands are already developed, and the type of development already existing in the area.* The proposed development within the ESHA buffer is limited to a paved entrance road (approximately 30') and the surfacing of crushed rock of approximately 900' of an existing unsurfaced road that passes through portions of a seasonal wetland, and the shop and septic system, which are beyond 50' from the edge of a grand fir forest ESHA. The wetland where the paved entrance road crosses is formed by the collection of water at the base of the highway berm. Some of the adjacent upslope hillside is wet, but the expression of this water is pronounced at the base of the berm where surface water cannot naturally pass through the fill material of the Highway 1 road prism. An alternative entrance road exists, but this would require excavating a significant amount of soil from the eastern bank of the Highway 1 through-cut. This alternative would likely create a new set of hydrological issues. The shop and septic system are between 50 and 100' form the grand fir forest ESHA. However, the scale of the development is small enough that it would not adversely affect the ecological functionality of the forest. The septic system is situated above the grand fir forest in an open grassy field where the slope levels out. As such, the septic system would not significantly introduce unnatural conditions to the forest edge or to the forest itself. The shop building is situated far enough from the edge of the grand fir forest such that it would not block light or create a situation where trees would need to be removed for the threat of dead or diseased trees falling on the structure.

Table 5. Sec. 20.496.020 ESHA -- Development Criteria.

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

The buffer was measured from the edge of the wetland, rare plants and plant communities.

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

No new subdivisions or boundary line adjustments are proposed.

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

(4a) Development shall be compatible with the continuance of the adjacent habitat area by maintaining the functional capacity, their ability to be self-sustaining and maintain natural species diversity.

The seasonal use of the existing road and the associated mowing has significantly increased the native species diversity by decreasing the cover of exotic perennial grasses such as purple velvet grass (*Holcus lanatus*) and sweet vernal grass (*Anthoxanthum odoratum*). By reducing this plant cover, much of the area is dominated by native forbs that would not be growing there otherwise. The road construction will not significantly impede the surface or subsurface flow of water, and it will maintain the functional capacity of the seasonally wet area. The Point Reyes checkerbloom that occurs in the topographically lowest, and consequently wettest, area will still receive the surface and subsurface water that it currently does. Native species diversity will be enhanced by continued mowing of the area along the road, especially in the vicinity of the Point Reyes checkerbloom.

The proposed placement of the septic system and workshop are within the 100' ESHA buffer of the grand fir forest but outside of the 50' buffer. No impact to the grand fir forest will occur from the development as no trees are being cut. Additionally, no indirect impact will occur because the area beyond the forest is an exotic perennial grassland. The grand fir forest on the Project Site is more or less restricted to the north-facing slopes and does not occur on the flat grassland. As such, in the grassland, there is little to no functional relationship to the grand fir forest beyond its edge.

(4b) Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel.

Figure 1 illustrates the configuration of the wetland in relation to the parcel boundary and the proposed entrance road. Because CalTrans requires a 600' line-of-sight, it is not feasible to maintain a minimum 50' buffer from the wetland. Criteria for building outside of the 50-foot ESHA buffer include

1. Excavating into the through-cut along side the highway. This would result in a large amount of earth that would be removed from the hill side (at least ~ 900 yd^3.
2. Increasing the potential for erosion because the excavation would be on much steeper topography. Water would drain onto Highway 1 from the entrance road.
3. Adding a prohibitively large cost to the project through engineering and constructing an access road through the through-cut.
4. Building within the 100' ESHA buffer will have no impact on the grand fir forest. Structures are located sufficiently far enough from the forest edge that there is no threat of trees falling on the workshop, thus eliminating the need to remove hazard trees.

Table 5. Sec. 20.496.020 ESHA -- Development Criteria.
(4c) Development shall be sited and designed to prevent impacts which would degrade adjacent habitat areas. The determination of the best site shall include consideration of drainage, access, soil type, vegetation, hydrological characteristics, elevation, topography, and distance from natural stream channels. The term "best site" shall be defined as the site having the least impact on the maintenance of the biological and physical integrity of the buffer strip or critical habitat protection area and on the maintenance of the hydrologic capacity of these areas to pass a one hundred (100) year flood without increased damage to the coastal zone natural environment or human systems. The workshop is sited such that there is a 50' buffer from the grand fir forest. The area from the edge of the forest to the workshop is exotic perennial grassland and is not habitat for grand fir. The road is sited to avoid the wetland to the greatest extent possible. By locating the road to the eastern edge of the 40' easement, a 25' buffer is maintained around the Point Reyes checkerbloom (Highway 1 is within 35' of these plants) and it avoids the higher quality wetland areas. Because at least 900 yd^3 of the Highway 1 cut bank north of the Salmon Creek Bridge would have to be removed to obtain a driveway approach clearance that is within the CalTrans specifications, it is determined that constructing a driveway over a disturbed and modified wetland will be less impacting to the landscape.
(4d) Development shall be compatible with the continuance of such habitat areas by maintaining their functional capacity and their ability to be self-sustaining and to maintain natural species diversity. The proposed driveway allows for the maintenance of the functional capacity of the wetland, including its ability to be self-sustaining, and its ability to maintain natural species diversity. Through the vegetation management proposed in the mitigation measures, the natural species diversity of the wetland will be increased by removing the exotic plant species and keeping the exotic perennial grasses mowed, which promotes the growth of native wetland forbs. Because the grand fir forest habitat does not extend beyond the forest edge, the proposed construction of the workshop and septic system will not decrease the habitat value of the forest. A condition of not planting invasive plant species in landscaping is proposed.
(4e) Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel. Mitigation measures, such as planting riparian vegetation, shall be required to replace the protective values of the buffer area on the parcel, at a minimum ratio of 1:1, which are lost as a result of development under this solution. No feasible alternative to constructing the road in the proposed location exists on the parcel. Excavating the eastern cut bank of the Highway 1 through-cut would result in major landscape modifications that would be more environmentally and aesthetically damaging than the proposed alternative. Development in the ESHA is limited to the construction of an entrance road through the wetland at the base of the berm and surfacing with crushed rock on the exiting road parallel to the berm, and the construction of a workshop and septic system outside a 50' ESHA buffer. No other site on the parcel allows for a 600' line-of-sight from Highway 1.
(4f) Development shall minimize the following: impervious surfaces, removal of vegetation, amount of bare soil, noise, dust, artificial light, nutrient runoff, air pollution, and human intrusion into the wetland and minimize alteration of natural landforms. Impervious surfaces are minimized by proposing a crushed rock driveway instead of an impervious surface such as asphalt or concrete. Vegetation removal, bare soil, and dust are minimized by locating the driveway along the existing site used for occasional vehicle use. No significant nutrient runoff is anticipated given the location of the structures and driveway on the flatter portions of the parcel. Artificial light is addressed in the architect's drawing. The design of the highway approach does not introduce any significant flow attenuation at the base topographic depression at the base of the Highway 1 fill prism.

Table 5. Sec. 20.496.020 ESHA -- Development Criteria.
(4g) Where riparian vegetation is lost due to development, such vegetation shall be replaced at a minimum ratio of one to one (1:1) to restore the protective values of the buffer area. The proposed driveway apron and crushed rock road will result in the loss of approximately 10,100 ft^2 (~0.23 acres) of Coastal Act Wetland . The closest on-site and in-kind restoration is the removal of exotic plants in the wetland that is created at the eastern base of the highway berm. Mitigation of 2:1 is proposed.
(4h) Aboveground structures shall allow peak surface water flows from a one hundred (100) year flood to pass with no significant impediment. No proposed development is adjacent to any watercourse. The entrance road is constructed of a permeable surface to allow water to percolate through the road, and drain pipes will be placed perpendicular to the road to allow any surface flow to continue towards the base of the highway berm.
(4i) Hydraulic capacity, subsurface flow patterns, biological diversity, and/or biological or hydrological processes, either terrestrial or aquatic, shall be protected. The proposed surfaced road will be constructed of permeable material such as road base and crushed rock and will not significantly affect the hydrological patterns. The greatest effect on the local hydraulic patterns is the artificial berm created by the construction of Highway 1, which is approximately 5' high. The placement of the fill material on the natural grade has dammed surface flow and caused it to accumulate behind the berm. Biological processes will be enhanced at a 2 to 1 ratio where the existing road will be surfaced with crushed rock.
(4j) Priority for drainage conveyance from a development site shall be through the natural stream environment zones, if any exist, in the development area. In the drainage system design report or development plan, the capacity of natural stream environment zones to convey runoff from the completed development shall be evaluated and integrated with the drainage system wherever possible. No structure shall interrupt the flow of groundwater within a buffer strip. Foundations shall be situated with the long axis of interrupted impermeable vertical surfaces oriented parallel to the groundwater flow direction. Piers may be allowed on a case by case basis. The proposed driveway with a crushed rock surface will allow for the natural infiltration of precipitation on-site. The construction of a culvert under the driveway apron positioned parallel to Highway 1 will allow for the flow of surface and subsurface water that is currently impounded by the construction of the Highway 1 fill prism. The proposed residence will not interrupt any flow of groundwater within a buffer strip.
(4k) If findings are made that the effects of developing an ESHA buffer area may result in significant adverse impacts to the ESHA, mitigation measures will be required as a condition of project approval. Noise barriers, buffer areas in permanent open space, land dedication for erosion control, and wetland restoration, including off-site drainage improvements, may be required as mitigation measures for developments adjacent to environmentally sensitive habitats. (Ord. No. 3785 (part), adopted 1991) To mitigate the development of a road within an ESHA (Coastal Act wetland) and within an ESHA buffer from a rare plant, and the construction of a workshop and septic system within 100' of an ESHA, measures and conditions will be implemented for the proposed developments to ensure the long-term viability of the wetland, rare plant, and grand fir forest. See text.

Appendices

Appendix A. Figures and Maps

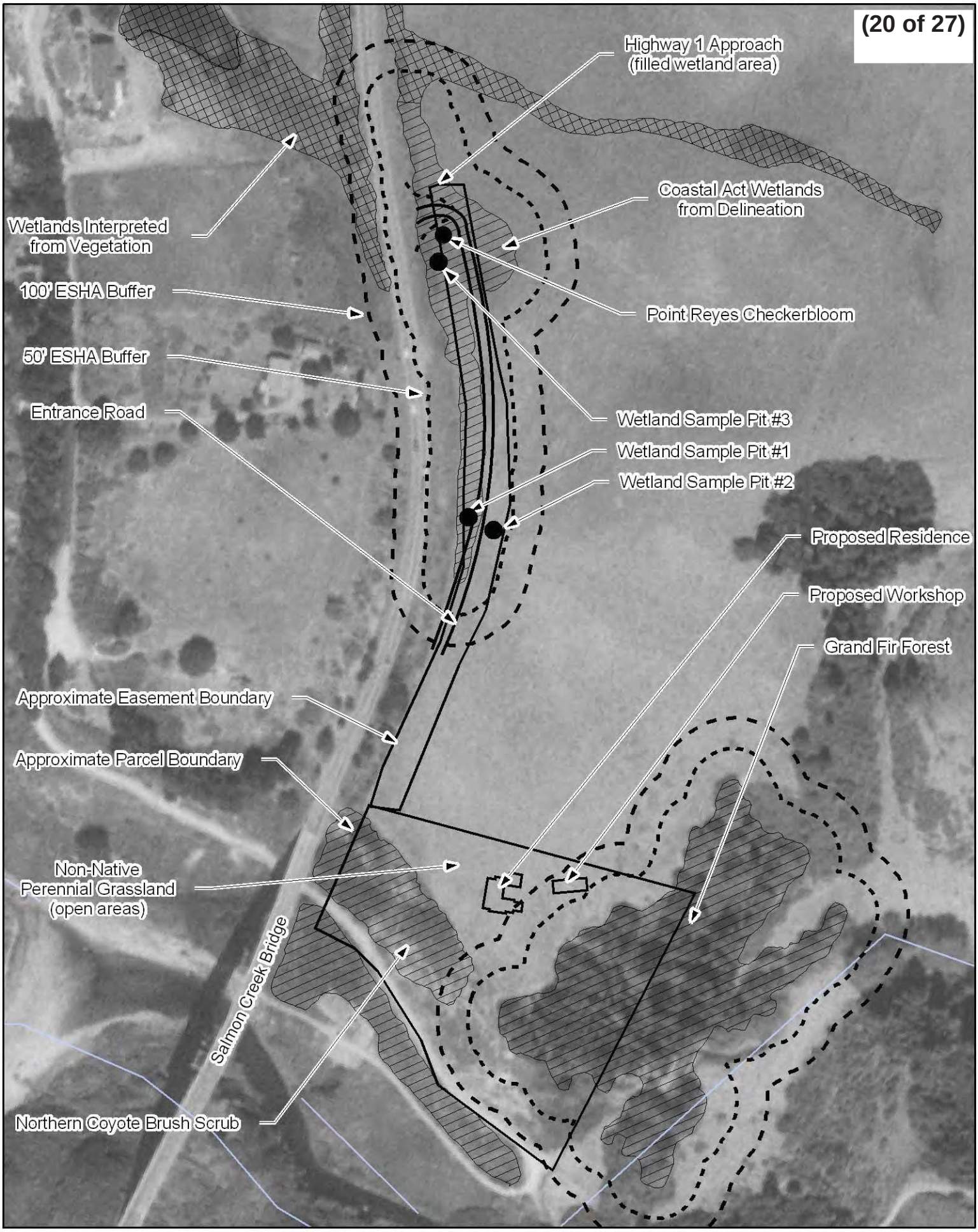

Figure 1. ESHA Map with Buffers. Wetland delineation pits are shown.

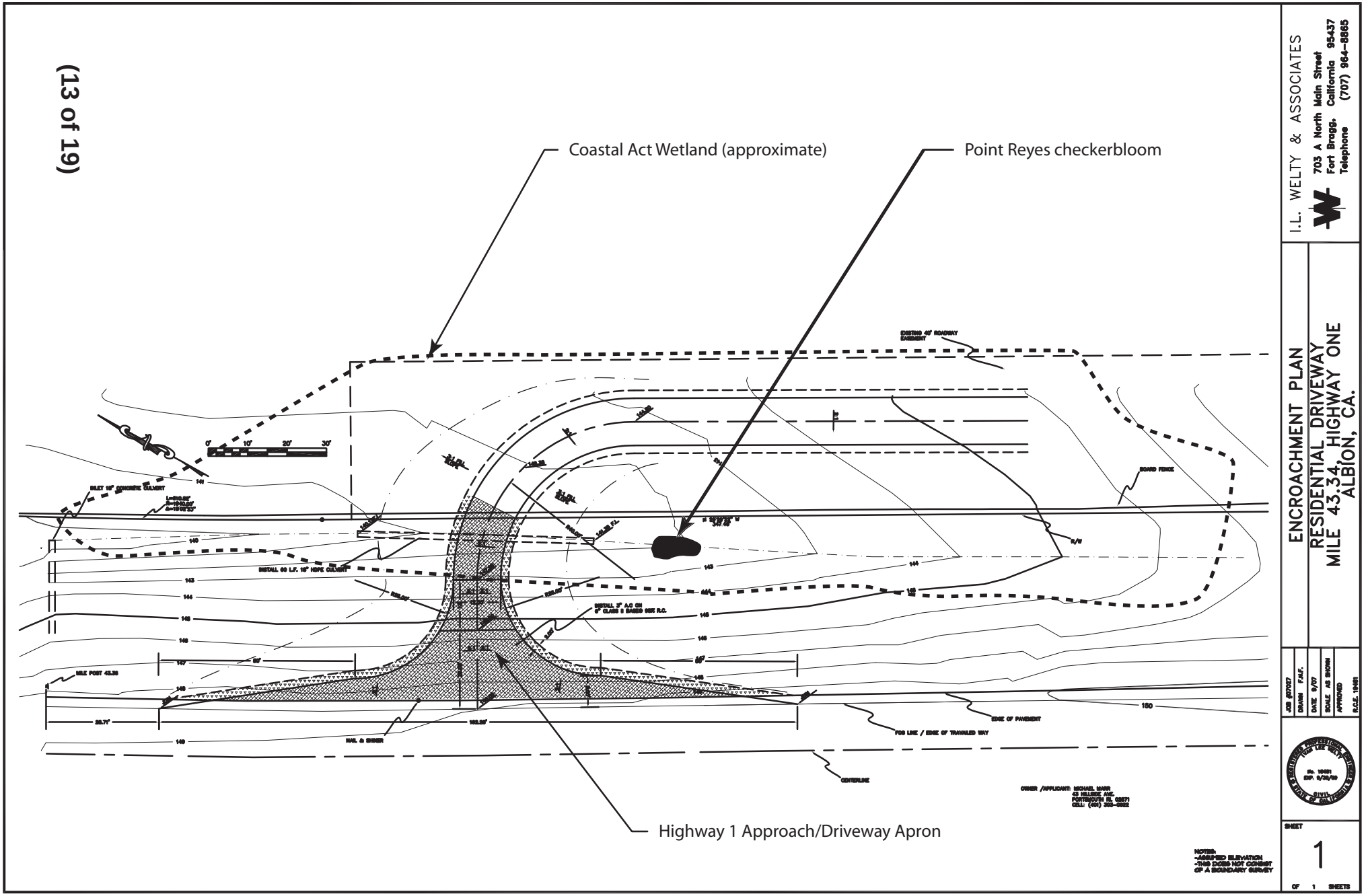

Figure 2. Highway 1 Approach Design. The engineered driveway design is shown in approximate relation to the wetland and rare plant stand of Point Reyes checkerbloom (*Sidalcea calycosa* ssp. *rhizomata*).

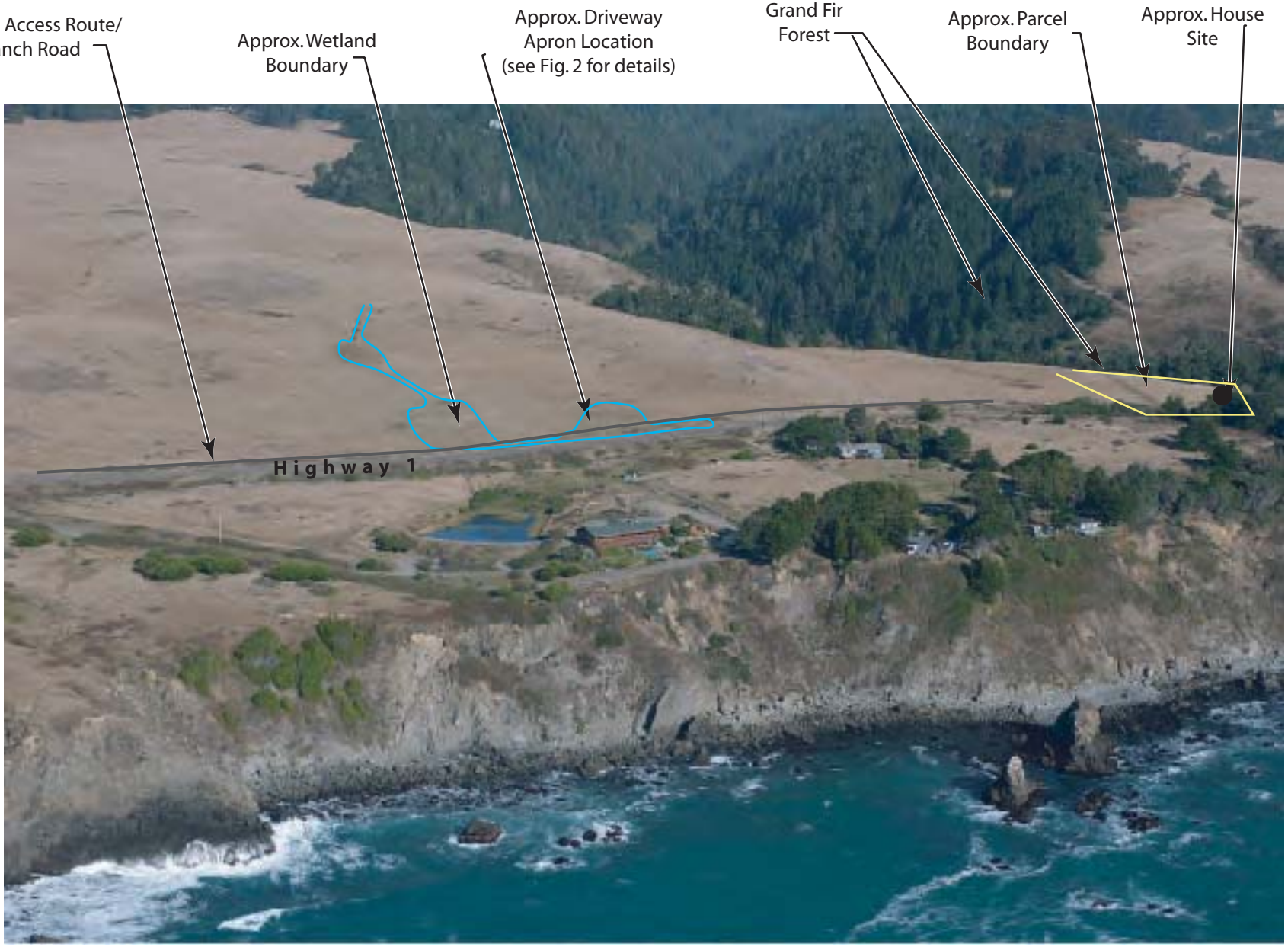

Figure 3. Project Site Oblique Aerial Photo Overview. Various aspects of the project are illustrated in the photograph.

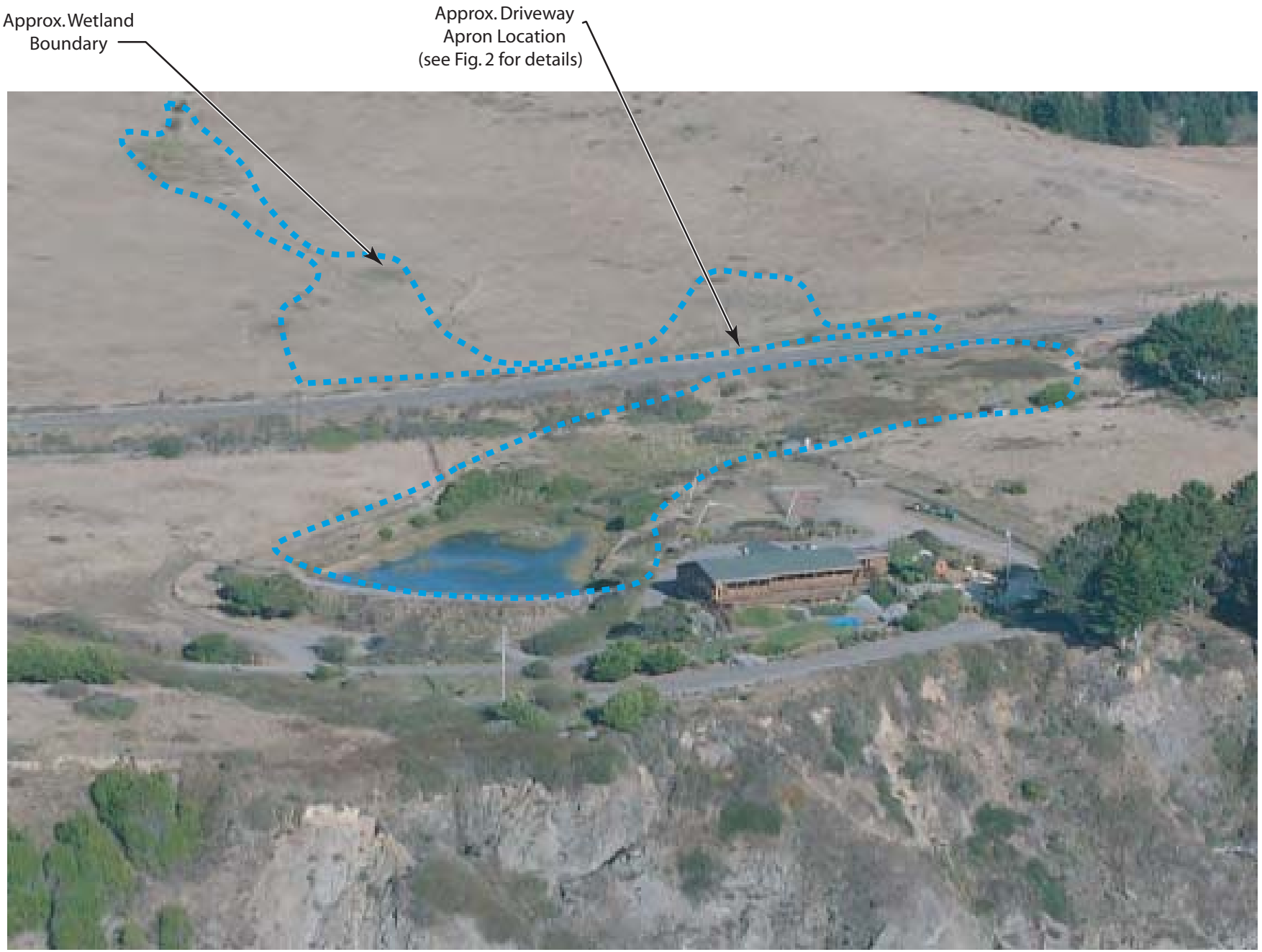

Figure 4. Project Site Oblique Aerial Close-Up. The generalized boundary of the wetland shows how Highway 1 has bisected and modified the subsurface flow of the seasonal wetland. Photo from californiacoastline.org.

Figure 5. South View of the Mowed Entrance Road. This area is used for vehicle access.

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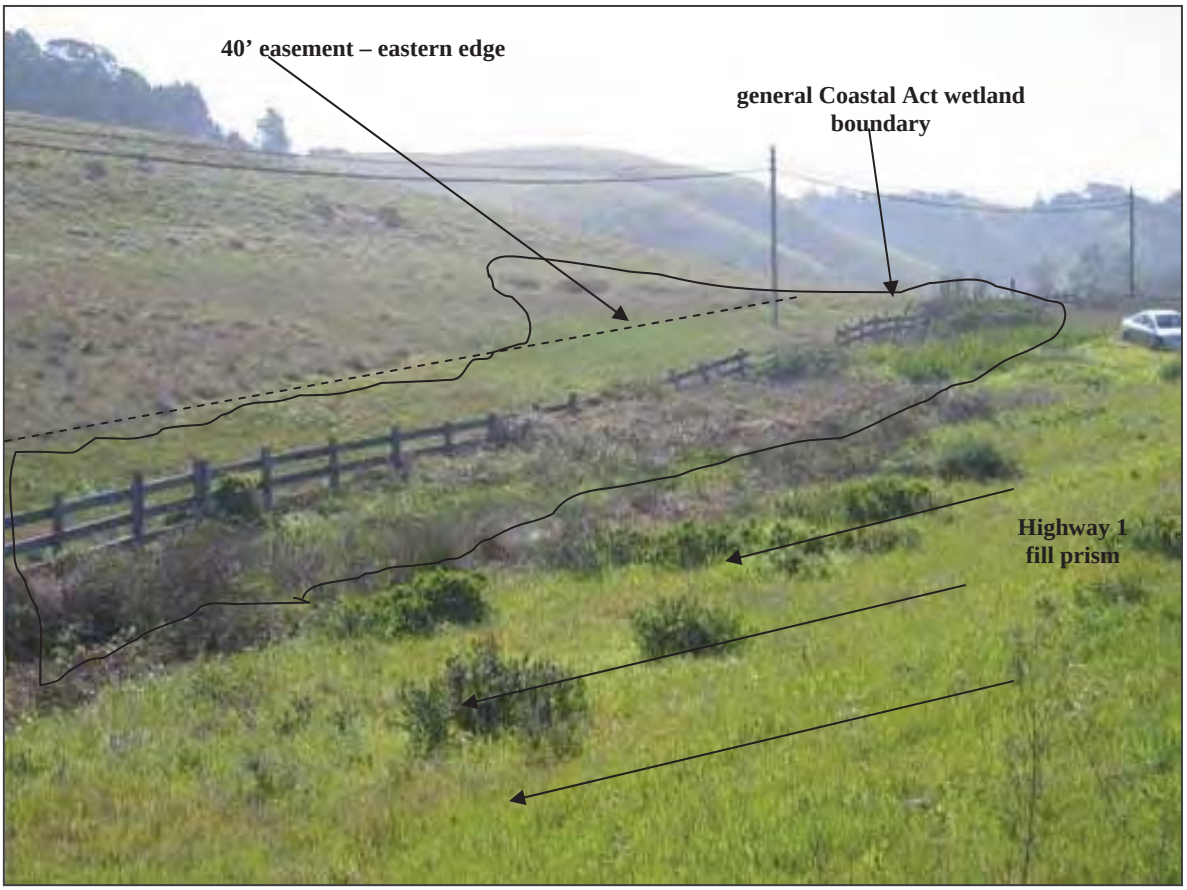

Figure 6. General Habitat of Wetland along Proposed Crushed-Rock Driveway, Facing Southeast. The wetland is not of high-quality as it is disturbed by vehicle use and is formed in part by the impoundment of subsurface flow at the base of the Highway 1 fill prism.

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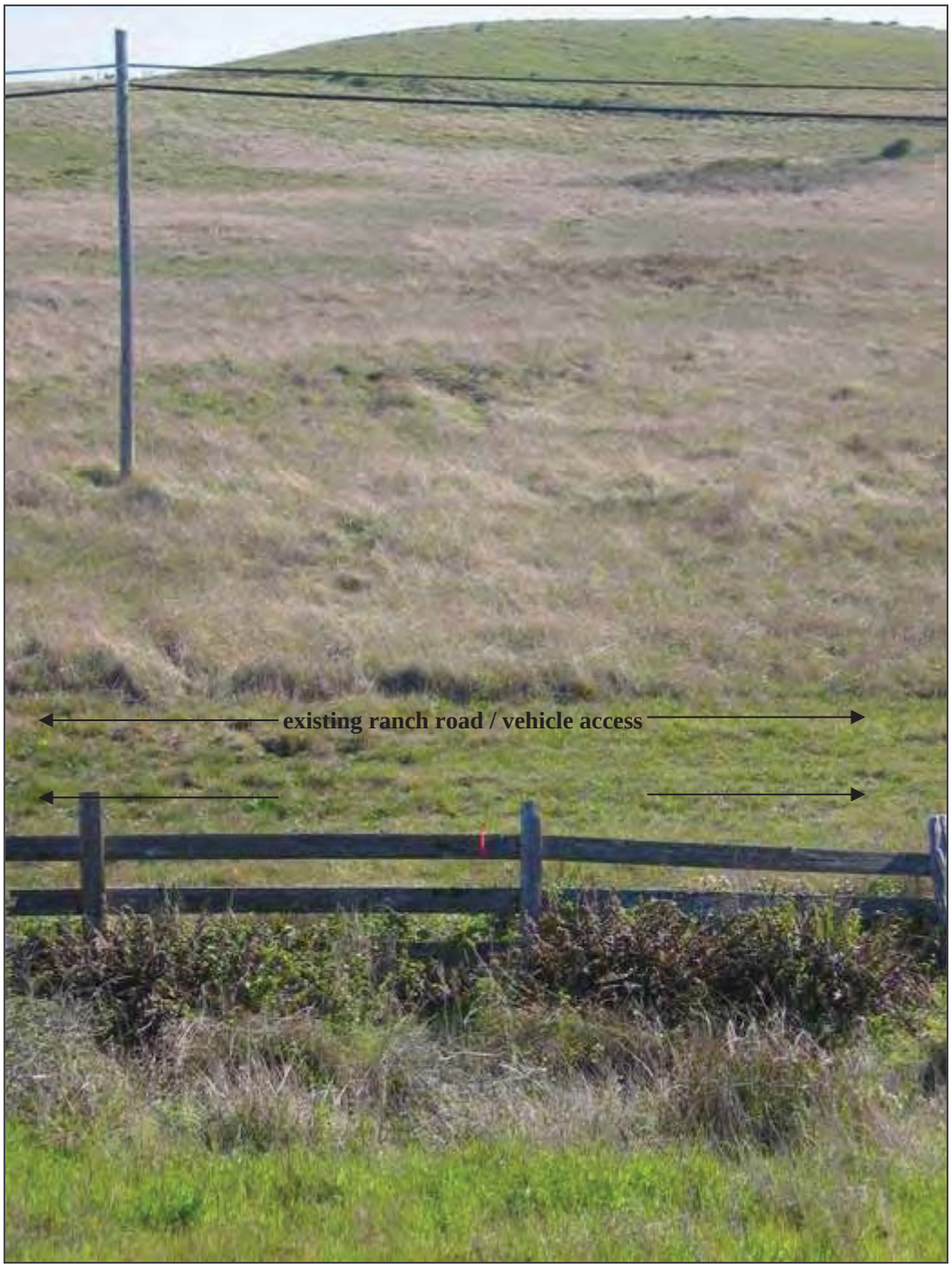

Figure 7. General Habitat of Proposed Driveway Apron Area, Facing East. The wetland is primarily formed by subsurface flow through a natural swale above the area near the fence. The construction of the Highway 1 fill prism has caused subsurface water, and surface water to a lesser extent, to become saturated at the base of the highway fill material.

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Figure 8. Point Reyes Checkerbloom Habitat. Habitat of *Sidalcea calycosa* ssp. *rhizomata* is found in low depressions that are at least seasonally wet.

Figure 9. Point Reyes Checkerbloom Flower. This close-up photograph of *Sidalcea calycosa* ssp. *rhizomata* shows the pink flowers and the palmate (palm-shaped) leaves.

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Mitigation Measures for Project Changes
at 2800 Highway One, Albion, California (APN 123-350-04)

prepared by Playalina Nelson, Consulting Botanist
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The project at 2800 Highway One includes the construction of a residence, garage, workshop, and associated access ways and utilities. The only feasible access to the site is off the east side of Highway 1, north of the Salmon Creek Bridge. Immediately north of the bridge there is a through-cut created for the highway that continues for approximately 450' with rather steep cut banks, and it continues for approximately 100' further with a decreasing height of cut banks. Any feasible approach to the parcel will have to cross a Coastal Act wetland (no hydrology was documented at the wetland, only hydric soils and hydrophytic plants). Any other approach along Highway 1 that is designed to avoid the wetland would result in a large amount of excavation of the eastern bank along Highway 1, thus altering what little natural topography remains along the cut bank. Additionally, this approach would not meet the requirements of line-of-sight establish by CalTrans and would render the project unfeasible.

In spring of 2009, Mendocino County Planner Rick Miller visited the site and suggested a change in the proposed design by moving the driveway access further south (an asphalt driveway apron is required by CalTrans to the Highway 1 approach). This new location lessens the impact by using the existing ranch road gated entrance and road along the property line that currently goes through the wetland. By changing the design, there will be an 85% reduction in impact to the wetland as estimated in the previous report, and it completely avoids the rare plant by more than 100 feet. With mitigating measures for the project design, the road construction will not have any significant impact to the wetland.

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

Impact 1: The proposed construction of the paved driveway approach and crushed rock road will result in crossing approximately 500 sq. ft. of Coastal Act wetland. Although an existing ranch road and gate exist in the proposed location, a crushed rock road surface will be placed on the road to meet the California Fire Code requirements.

***Mitigation Measure 1a*: Enhance the quality of the disturbed wetland (approximately 500 sq. ft.) at the base of the Highway 1 berm. (This is a mitigation ration greater than 10:1.)**
Exotic plant species: Himalaya blackberry (*Rubus discolor*), periwinkle (*Vinca major*), and watsonia iris (*Watsonia bulbillifera*) will be removed over a 3 year period in the wetland at the base of the Highway 1 berm. A qualified botanist will submit a brief annual report to Mendocino County Planning and Building documenting the progress. Additionally, the entrance area along the road will be moved to promote the growth of native wetland forbs. All exotic plants can be removed from the location with shovels. It will be the botanist's job to document the extent of

exotic plants annually after each removal effort, and to make sure the owner or the owner's employee knows how to identify the aforementioned weeds.

Mitigation Measure 1b: **Use permeable surfaces for road surfaces.**
To reduce the potential for concentrated water runoff form leaving the proposed develop sites, a semi-permeable surface such as crushed rock will be used in place of concrete or asphalt for the entrance road. However, it is necessary to pave the approach to the highway.

Mitigation Measure 1c: **Install temporary fencing to ensure grading and/or material storage does not occur in the rare plant area or wetland.**
Temporary fencing, such as orange plastic fencing or black silt cloth, will be placed on the outer edge of the road where it leaves the asphalt apron. This will ensure that equipment used in the construction of the road or extra piles of dirt do not intrude on the wetland.

Mitigation Measure 1d: **Design the entrance road so that it is on the easternmost side of the access easement past the Highway 1 approach.**
By making use of the easternmost side of the easement, a greater buffer is given to the seasonal wetland. The road will make use of the existing road that crosses the wetland and then it will avoid the wetland by paralleling it along the easement.

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

Mitigation Measure 2a: **Planting of invasive landscaping plants will not occur.**
Landscaping within the ESHA buffers will not include any of the invasive plants below that are commonly used in landscaping. They include the following species.

blue gum eucalyptus (*Eucalyptus globulus*)
jubatagrass or pampasgrass (*Cortaderia jubata* or *Cortaderia selloana*)
ivies: English ivy, Algerian ivy, or cape ivy (*Hedera caneriensis, Delairea odorata* or *Hedera helix*)
periwinkle (*Vinca major*)
cotoneaster (*Cotoneaster lacteus* or *Cotoneaster pannosus*)
Brooms: Bridal broom, French broom, Portuguese broom, Scotch broom or Spanish broom (*Retama monosperma, Genista monspessulana, Cytisus striatus, Cytisus scoparius* or *Spartium junceum*)

Wetland Mitigation Plan

2800 Highway One, Albion, California (APN 123-350-04)

CDP-57-2008 Marr & Malin

prepared by Playalina Nelson, Consulting Botanist
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Santa Rosa, CA 95402
August 2010

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2017

TABLES

APPENDICES

1.0 Project Description

This mitigation plan addresses the compensatory mitigation requirements for the impacts to wetlands by the proposed project. This mitigation plan provides the guidelines for the expansion and enhancement of wetlands on site.

1.1 Location

The project site is an approximately 4-acre parcel zoned rangeland, east of Highway 1 and within the California Coastal Zone. It is located at 2800 Highway One, Albion, California (APN 123-350-04). It occurs on the SW ¼ of Section 28, Township 16 N, Range 17 W of the Mount Diablo Base Meridian.

1.2 Project Description

The proposed project is to construct a single family residence and associated structures. See coastal development permit for a full description of the project. The components of the project that necessitate a wetland mitigation plan are those activities that cause impacts to wetlands or their buffers, namely the paved driveway apron and the rocked road.

1.3 Project Impacts

Two components of the project impact wetlands or their buffers: an asphalt driveway apron and gravel driveway and a longer segment of gravel driveway. The asphalt apron and gravel road covers 500 ft^2 of wetland (1-parameter seasonally wet meadow based on vegetation); approximately 1/3 (~167 ft^2) is covered by the asphalt and 2/3 (~333 ft^2) is covered by permeable gravel. The gravel driveway covers 4800 ft^2 (~400' x 12') of nonnative perennial grassland within the 50' buffer to a different section of the same wetland (See Table 1.)

Table 1. Summary of Project Impacts and Mitigation

Project Components	Area	Volume	Habitat Impacted	Wetland Expansion	Area of Wetland Enhancement	Method of Wetland Enhancement	Mitigation Ratio
Asphalt driveway apron / gravel driveway	500 ft^2	250 ft^3	Wetland	1300 ft^2	0	-	2.6:1
Gravel Driveway	4800 ft^2 (~400' x 12')	2400 ft^3	Wetland Buffer	0 ft^2	5200 ft^2	Invasive Plant Removal	1.08:1
					2700 ft^2	Periwinkle/bearded iris	
					2500 ft^2	Himalaya blackberry	

1.4 Description of Proposed Compensatory Wetland Mitigation Site

The impacted wetland is a small portion of a larger wetland, which is partly defined by low-growing, herbaceous, hydrophytic plants. The wettest part of the wetland, and smallest part, is the lowest area downslope of the Hwy 1 berm, which undoubtedly impounds water to some extent. This is also the area of greater cover of native wetland plants. Most of the wetland, including the impacted area, is characterized by slightly more than 50% wetland plants and a thick cover of nonnative perennial grasses. Away from the wettest part of the wetland, in portions of the easement where the driveway apron and road are proposed and elsewhere, there is often a greater cover of wetland plants where there is annual mowing. In general, the wetland and upland buffer where the road and driveway are proposed is not of high wetland value.

1.5 Background

Originally, the project was going to include a driveway apron approximately 225' northward of the currently proposed location. This site coincided with the lowest point on the eastern side of the Highway 1 berm and consequently with the highest quality wetland. The reason for the originally proposed location was to comply with CalTrans' line-of-sight standards for driveway approaches. It was believed to be too dangerous to use the existing ranch road entrance as it was too close to the arch in Highway 1 where traffic proceeds southbound off of the Salmon Creek Bridge. Any new

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approach south of the existing ranch road entrance is unfeasible due to the steep through-cut created during the construction of Highway 1 many years ago.

To avoid significant impacts to the wetland, the applicant and Mendocino County planner proposed the existing ranch road as an alternative. A CalTrans permit inspector agreed that modifications to the existing cut slope, including annual brushing, could afford a safe line-of-sight from the highway and from the existing ranch road entrance. This new alignment avoids placing the proposed driveway apron (a CalTrans requirement) and rocked road through the seasonally wet meadow as shown in the previous wetland delineation information. However, the paved driveway apron and rocked road unavoidably crosses a small portion (500ft^2) of the seasonal wetland. There is no feasible way to enter the property without crossing some portion of the wetland. This alternative, using the existing driveway entrance area and ranch road, is the least environmentally impacting alternative.

2.0 Ecological Assessment of Project Site

2.1 Ecological Assessment of Wetland Impact Site

2.1a Habitat Assessment

2.1a.1 Plants

Plant species encountered are listed in Table 2 and their wetland indicator status was identified (Reed 1988). This gives a summary of the abundance of wetland plants. No plants with an "obligate" status were present. The dominant plant was the nonnative creeping bent grass (*Agrostis stolonifera*). No special-status plant species were present. Plants in the wetland are the best (only) indicator of a wetland at this site.

Table 2. Summary of Plant Cover on Wetland Impact Site

Species	Stratum	Status	Percent Cover	Cumulative Cover >50%	Cover >=20%	Dominant
Agrostis stolonifera	Herbaceous	FACW	60%	60%	Yes	Yes
Eryngium armatum		FACW	40%		Yes	Yes
Anthoxanthum odoratum		FAU	15%		No	No
Juncus tenuis		FACW	2%		No	No
Carex gynodynama		NI	2%		No	No
			119%	59.5%	23.8%	

2.1a.2 Animals

The wetland does not support habitat for any animals typical of wetland habitats. There is no standing water for amphibians. A song sparrow (*Melospiza melodia*) was seen nearby in upland scrub, and a common ringlet butterfly (*Coenonympha tullia*) was seen in the adjacent upland grassland. Insects would seem to be the most common or abundant wildlife that would use the wetland, but none were identified. Also, there is no habitat for aquatic insects due to the lack of water in the wetland.

2.1a.3 Hydrology

No wetland pits were dug in the 500 ft^2 of impacted wetland during the previous wetland delineation, as this was not proposed as an impacted site. Therefore, a pit was dug to identify the characteristics of the soil and make observations of any hydrology. No saturation or standing water was present to a depth of 21".

The site is connected to the larger wetland based on the presence of wetland plants, and to some extent, the presence of marginally wet soils. However, no hydrology is present to contribute to the "wetland" habitat, which in turn does not function as a contributing element to the wetland.

Approximately two thirds of the driveway apron/driveway impact is covered in permeable gravel, which will allow water to percolate into the soil and not significantly change or diminish water infiltration for this small area.

2.1a.4 Soil
Generally, the soil is a dark prairie soil, primarily clayey-loam. Soil from the soil pit had a Munsell (GretagMacBeth 2000) matrix color (moist) of 10YR 2/3 but there with less than 1% mottles (5YR 5/6), and is not classified as a wetland soil. The soil map unit name is Dystropepts 30-75% slopes and is not on the list of National List of Wetland Soils (NRCS 2005).

2.1a.5 Surrounding Habitat
The surrounding habitat to the north and south and generally within approximately 100' has been delineated as the same or similar type of wetland. To the east, the nonnative perennial grasses become dominant, the topography becomes steeper and the habitat becomes upland. To the west is Hwy. 1 with an area of upland scrub between the wetland and Hwy 1.

2.1b Function
The ecological processes that the wetland performs describe its function. They are expressions of the physical (e.g., topography), chemical (e.g., soil, water quality), and biological (e.g., species and how they use the wetland habitat) attributes of the wetland. Since the impacted wetland has no standing water or subsurface saturation, the complexity of its function is greatly diminished. An observation of the downslope area behind the berm 225' northward illustrates this point.

Where the water saturates the soil, the plants' roots must be adapted to growing in a high water table in order to survive. Plants that occur in this depression are those that almost always occur in wetlands (plants with an indicator status of "obligate," OBL). In the impacted wetland, the lack of hydrology means that plants usually occurring in wetlands (plants with an indicator status of "facultative wetland," FACW), as well as plants that usually occur in non-wetlands but are occasionally found in wetlands (plants with an indicator status of "facultative upland," FACU) both occur on the site. Furthermore, the nonnative creeping bentgrass (FACW) is a poor example of a facultative wetland plant on the Mendocino Coast as it frequently occurs in non-wetland sites such as dry sandy-loam soils, roadsides, and upland ruderal habitats. The dominance of wetland plants on the impacted wetland is probably due more to the occasional mowing, which reduces the herbaceous wetland plants' competition for light, water, and nutrients, than due to the inherent quality of the site. For nearby, there is a dominance of nonnative perennial grasses that does not constitute wetland vegetation.

The wetland does not apparently function as habitat for any wildlife other than non-aquatic insects, which probably occur in lesser numbers than surrounding upland areas with taller grass and shrubs. Its function is, in part, providing the edaphic conditions for some plants that occasionally to frequently occur in wetlands. The wetland contributes to the marginal areas of low quality wetland surrounding a higher quality wetland (the one that is downslope and next to the berm).

In general, it can be said that this impacted wetland is of overall low quality and little value for the following reasons: it lies on a topographically convex location, lacks hydrology, lacks hydric soil, is covered with a predominance of nonnative grasses that frequently occur in upland areas, and does not provide habitat for a diversity of wetland plants or habitat for animals normally associated with wetlands. The value of the impacted wetland lies in the ability to act as a buffer to a larger wetland of higher quality. It does provide "area" around the high quality wetland, but the upland areas do this as well.

2.2 Ecological Assessment of Buffer Encroachment Site

2.2a Habitat Assessment

The existing unsurfaced ranch road that is proposed to be rocked (approximately 400' section of 12' wide road) is not expected to have any significant effect on the wetland or diminish the qualities of the buffer itself as a protective feature for the wetland. The gravel road is porous and will not significantly affect the runoff patterns during rain.

2.2a.1 Plants

The dominant plants in the upland area from the wetland are sweet vernal grass (*Anthoxanthum odoratum*) and creeping bent grass, both nonnative perennial grasses. As discussed above, it is not uncommon to find the latter, a facultative wetland plant, in upland areas.

2.2a.2 Animals

The wetland buffer, like the impacted wetland, does not support habitat for any animals typical of wetland habitats. It is part of a large nonnative perennial grassland that is grazed by livestock.

2.2a.3 Hydrology

The buffer to the wetland is that area that was described as an upland, non-wetland, area. No hydrology is present.

2.2a.4 Soil

Generally, the soil is a dark prairie soil, primarily clayey-loam, lighter (higher chroma) than the wetland soil, and without oxidation.

2.2a.5 Surrounding Habitat

The wetland buffer is very similar habitat to the wetland.

2.2b Function

There are no wetland functions of the buffer – no habitat for a dominance of wetland plants occurs, nor is there any notable wildlife habitat. The role that this area plays in context of the wetland is that it is an undeveloped area adjacent to a seasonally wet meadow, providing a transition into upland areas. Additionally, it does not function as habitat value for wildlife. The placement of gravel on the ranch road will still allow for the percolation of water into the upland areas above the wetland, and does not increase the area of impervious surface within the buffer. There are no significant impacts to the wetland or its buffer by rocking the road.

3.0 Mitigation

3.1 Mitigation Goals

In order for this project to support the goal of no-net-loss of wetlands, wetland expansion as a form of mitigation for the loss of wetlands is proposed. This choice results in an expansion of existing wetland area and an increase in wetland function at a ratio of 2.6:1. The ratio is a direct expression of area, however there is also an increase of value for the proposed planting of native plants; the impacted wetland is dominated with a nonnative grass.

Wetland enhancement is proposed as mitigation for the encroachment into a wetland buffer. The improvements to the wetland and its buffer will result in increased wetland function and value at a ratio of 1.08:1.

The goal, objectives, and performance standards of the mitigation are given below.

Goal: Replace the impacted wetland by expanding a larger wetland having similar functions and ecological values at a ratio of 2.6:1, and to mitigate the encroachment into a wetland buffer by enhancing the existing wetland and its buffer at a ratio of 1.08:1.

The ratio of the enhancement area is based on square footage; however the number would be much larger if a standard metric for the value of removing nonnative plants were used. It is clear that the invasive weeds are expanding, especially the bearded iris, and through time they would overtake the vegetation of the wetland, including the rare and native plants.

Table 3. Summary of Mitigation Objectives and Performance Standards

Objectives	Performance Standard
Plant a 1300ft^2 area adjacent to the existing wetland with hydrophytic plants.	The hydrophytic vegetation will cover 1300ft^2, and within two years, the cover of native hydrophytic species will be at least 75% in this area as measured by ocular estimation.
Remove invasive plants covering 5200 ft^2 in the existing wetland and its buffer.	After two years, presence of bearded iris (*Watsonia bulbifera*), periwinkle (*Vinca major*), and Himalaya blackberry (*Rubus armeniacus*) not greater than 15% as estimated by ocular estimation in designated weed removal area. After 5 years, no occurrences of aforementioned weeds within the same area.

3.2 Ecological Assessment of Mitigation Site

3.2a Wetland Expansion

3.2a.1 Habitat Assessment

3.2a.1.1 Plants

The difference between the proposed wetland expansion site and the impacted wetland site is subtle; both are dominated by nonnative grasses that are not good indicators of wetlands. The mitigation site has several species of wetland plants, but they are not present with enough cover to characterize the site as a wetland.

Plant species on the site are listed below and their wetland indicator status is identified. This gives a summary of the abundance of wetland plants.

Table 4. Summary of Plant Cover on Wetland Expansion Site

Species	Stratum	Status	Percent Cover	Cumulative Cover >50%	Cover >=20%	Dominant
Anthoxanthum odoratum	Herbaceous	FACU	50%	50%	Yes	Yes
Briza maxima		NI	30%	80%	Yes	Yes
Eryngium armatum		FACW	10%		No	No
Holcus lanatus		FAC	10%		No	No
Hypochaeris radicata		FACU	5%		No	No
Sisyrinchium bellum		FAC+	5%		No	No
Briza minima		FACU	<5%		No	No
Rubus ursinus		FAC+	<5%		No	No
Vulpia bromoides		FACU	<5%		No	No
			116%	58%	23.2%	

3.2a.1.2 Animals
The wetland does not support habitat for any animals typical of wetland habitats. Like the impacted wetland, there is no standing water for amphibians or aquatic insects.

3.2a.1.3 Hydrology
A soil pit was dug in the wetland expansion site to characterize the soil and presence of hydrology, if any. No saturation or standing water was present to depth of 21".

3.2a.1.4 Soil
The soil is similar to the soil in the impacted wetland site; it is a dark prairie soil, primarily clayey-loam. Soil from the soil pit had a Munsell matrix color (moist) of 10YR 2/3 with no redoximorphic features, and is not classified as a wetland soil. The soil map unit name is the same as the impacted wetland. Some areas of similar soil support the species to be used for wetland expansion, making the wetland expansion site suitable for such species.

3.2a.1.5 Surrounding Habitat
The surrounding habitat is similar to that of the impacted wetland; nonnative perennial grasses are dominant up the slope to the east.

3.2a.2 Function
The wetland expansion site is designed to permanently increase the larger wetland's function as habitat for wetland plants. The impacted wetland site has a dominance of nonnative perennial grass that is equally abundant in upland sites as it is in wetland sites. The expanded wetland will be planted with native perennial wetland plants, increasing the size of the existing wetland by greater than 2.5 times the size of the impacted wetland, and creating a dominance of native plants. Because the species used for expanding the wetland are present in some areas of similar soil, they are suitable for planting.

3.2b Wetland and Buffer Enhancement

3.2b.1 Habitat Assessment
Portions of the wetland enhancement (i.e., the area of nonnative invasive species) are immediately adjacent to the wetland; the majority of the wetland enhancement occurs within the area delineated as wetland. This enhancement contributes more value to the wetland than the actual wetland expansion as it eliminates the threat of nonnative weeds expanding further into a wetland with rare plants.

3.2b.1.1 Plants
The objective of wetland enhancement for this project is to remove invasive nonnative plants. The targeted plants for removal are three perennial plants, bearded iris (*Watsonia* bulbifera), periwinkle (*Vinca* major), and Himalayan blackberry (*Rubus armeniacus*).

3.2b.1.2 Animals
The area of the wetland and its buffer where the invasive weeds are growing does not support habitat for any animals typical of wetland habitats. Like the impacted wetland, there is no standing water for amphibians or aquatic insects where enhancement is proposed.

3.2b.1.3 Hydrology
The enhancement area does not have any areas of standing water, and hydrology is not a factor is measuring success of enhancement.

3.2b.1.4 Soil
Soil is not a metric for this wetland enhancement.

3.2b.1.5 Surrounding Habitat

The surrounding habitat is similar to that of the impacted wetland; nonnative perennial grasses are dominant up the slope to the east. Highway 1 is immediately to the west of the enhancement area.

3.2b.2 Function

Most of the wetland and buffer enhancement is in the wetland, although the enhancement of the buffer area is equally as important. Since the primary objective of the wetland enhancement is to remove invasive nonnative plants, the value of the wetland and its buffer as habitat for native species is greatly increased. Without removal of these nonnative plants, primarily the bearded iris, the wetland, including the small area with rare plants, will eventually loose the plant diversity that occurs there now.

While the area of wetland and wetland buffer enhancement is slightly greater than the area of wetland buffer encroachment from the proposed graveled road, the value is many times greater than a one-to-one ratio. The buffer encroachment has little value of a wetland buffer because there are no ecological elements, if any, that function as a wetland. It is primarily an area of nonnative grasses adjacent to a low-quality wetland. The wetland and the wetland buffer proposed for enhancement will stop the spread of invasive weeds in an area that is closer to the part of the wetland with greater ecological value (rare wetland plants, saturated soils, wetland plants, i.e. ecological elements that describe functioning wetlands).

3.3 Mitigation Site

3.3a Site Plan

The site plan for the mitigation site (Appendix B) depicts the location of the mitigation strategies that will be used to achieve the goals and objectives described above. To create a similar wetland as the impacted wetland, no grading is proposed. Topographic contours of the expanded wetland and enhanced wetland are not a metric for evaluating the success of the mitigation as there is no modification to the natural topography or modified topography of the highway berm.

3.3b Design Methods

To accomplish the mitigation goals and objectives, the following methods are proposed.

Objective 1. Plant a 1300ft^2 area adjacent to the existing wetland with hydrophytic plants.

> Performance Standard: The hydrophytic vegetation will cover 1300ft^2, and within two years, the cover of native hydrophytic species will be at least 75% in this area as measured by ocular estimation.
>
> Method: One gallon container nursery stock or divisions from on site will be used for planting: 50 Pacific rush (*Juncus effusus*) and 150 slough sedge (*Carex obnupta*). Plants will be planted approximately 30" on center to cover 1300ft^2. Monitoring for 5 years will provide results to determine if contingency planting is needed. If so, more planting will occur in the same manner until the performance standards are met. Planting will occur with the consultation of a qualified biologist, restoration specialist, or wetland specialist to determine correctness of species and planting locations. Monitoring and reporting will be conducted by the same qualified personnel.

Objective 2. Remove invasive plants covering 5200 ft^2 in the existing wetland and its buffer.

> Performance Standard: After two years, presence of bearded iris (*Watsonia bulbifera*), periwinkle (*Vinca major*), and Himalaya blackberry (*Rubus armeniacus*) not greater than 15% as estimated by ocular estimation in designated weed removal area. After 5 years, no occurrences of aforementioned weeds will occur within the same area.

Method: Bearded iris, periwinkle and Himalayan blackberry will be removed from the wetland and the immediate area by methods approved by CalTrans, since most of the weeds are on the highway right-of-way. Typical methods of weed removal are chemical and mechanical. If the latter is used, bulbs of iris, runners of periwinkle, and small root wads of Himalayan blackberry must be removed from the soil and disposed off site (preferably in plastic bags) in a location where they will not lead to another infestation. Monitoring for 5 years will ensure weed infestations are eradicated, and will be conducted by a qualified biologist, restoration specialist, or wetland specialist; weed removal can occur by anyone with the ability to properly identify the target species.

3.4 Monitoring Plan

The monitoring plan outlines the methods by which data are collected for demonstrating that the performance standards have been met. Additionally, reporting the results of monitoring will determine if contingency planning needs to be implemented.

3.4a Variables Measured

Wetland Expansion: Vegetation cover is the only variable that is needed to be measured in order to meet the goals of the mitigation.

Wetland Enhancement: Vegetation, or presence/absence of targeted plants, is the measured variable.

3.4b Sampling Method

Wetland Expansion: A marker, such as flagging, will be placed on the adjacent fence as a reference point to the boundary of the expanded wetland. Using the site plan, four ocular estimations of absolute plant cover will be made, one each on 25% of the expanded wetland. Absolute cover will only include dominant plant as determined by the same method used in wetland delineations (USACOE, 2010). Total species composition will also be recorded. A qualified biologist or wetland specialist will perform sampling.

Wetland Enhancement: Visual inspection of the wetland enhancement site will determine presence or absence of the three target weeds: periwinkle, bearded iris, and Himalaya blackberry. Using the site plan and a reference point from Highway 1, ocular estimation of cover of these weeds across the entire site will be used to determine percent cover. A qualified biologist or wetland specialist will perform sampling.

3.4c Monitoring Schedule

Wetland Expansion: Monitoring will occur for 5 years. The first monitoring effort will occur after the plants are planted in autumn or winter, in order to document the site immediately after implementation. The second monitoring will occur in spring to assess the success of the planting. This monitoring effort will trigger contingency planting if the set performance standards are not met. Monitoring will continue annually each spring. (See Tables 5 and 6.)

Wetland Enhancement: Monitoring will occur for 5 years. Like the monitoring for the wetland expansion, there will be an initial monitoring effort after the first invasive plant removal, likely in autumn. Another monitoring effort will occur in the following spring to assess the effectiveness of the removal efforts. This will indicate if greater effort needs to be put into the weed removal. (See Tables 5 and 6.)

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3.4d Monitoring Reporting

Wetland Expansion & Wetland Enhancement: Reporting will be completed by a qualified biologist, restoration specialist, or wetland specialist. Brief reports that describe the progress of the projects relative to the performance standards will be completed at the end of the 2nd and 4th spring after project implementation. A final summary report will be completed in the winter of the 5th year after project implementation. Reports will be submitted to the California Coastal Commission, Eureka or the Mendocino County Department of Building and Planning, Fort Bragg. (See Tables 5 and 6.)

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Table 5. Wetland Expansion and Enhancement Design and Monitoring Plan

Design Plan					
Wetland Expansion Plan					
Task	**Location**	**Timing**	**Responsible Party**		
Plant one gallon container nursery stock or divisions from on site: 50 Pacific rush (*Juncus effusus*) and 150 slough sedge (*Carex obnupta*). Plants will be planted approximately 30" on center to cover 1300ft^2	See site plan.	After first rains in fall preferably, or during rainy season. Can be other times but supplemental watering may be needed.	Applicant/Landscaper in coordination with Biologist.		
Wetland Enhancement Plan					
Task	**Location**	**Timing**	**Responsible Party**		
Remove bearded iris (*Watsonia bulbifera*), periwinkle (*Vinca major*), and Himalaya blackberry (*Rubus armeniacus*) from site.	See site plan.	After first rains in fall may make ground easier to work when digging up bulbs, etc. But any time throughout the year.	Any one anyone with the ability to properly identify the target species		
Monitoring Plan					
Wetland Expansion Monitoring Plan					
Variable to Measure	**Sampling Method**	**Timing**	**Location**	**Responsible Party**	**Reporting**
Vegetative cover.	Four ocular estimations of vegetation cover of plants. Each cover estimate at 25% of site. Complete plant species inventory.	After planting and each spring thereafter.	See site plan.	Qualified biologist, wetland specialist, or restoration specialist.	Brief reports that describe the progress of the projects relative to the performance standards will be completed at the end of the 2nd and 4th spring after project implementation. A final summary report will be completed in the winter of the 5th year after project implementation. Reports will be submitted to the California Coastal Commission, Eureka or the Mendocino County Department of Building and Planning, Fort Bragg
Wetland Enhancement Monitoring Plan					
Variable to Measure	**Sampling Method**	**Timing**	**Location**	**Responsible Party**	**Reporting**
Presence or absence of target weeds: bearded iris, periwinkle, and Himalaya blackberry.	Ocular survey of presence of plant while walking perimeter of site.	After initial removal and each spring thereafter.	See site plan.	Qualified biologist, wetland specialist, or restoration specialist.	Brief reports that describe the progress of the projects relative to the performance standards will be completed at the end of the 2nd and 4th spring after project implementation. A final summary report will be completed in the winter of the 5th year after project implementation. Reports will be submitted to the California Coastal Commission, Eureka or the Mendocino County Department of Building and Planning, Fort Bragg

Table 6. Wetland Expansion and Enhancement Design and Monitoring Plan Scheduling Timeline

Task	Schedule (WI=Winter, SP=Spring, SU=Summer, FA=Fall)																					
	FA 01	WI 01	SP 01	SU 01	FA 02	WI 02	SP 02	SU 02	FA 03	WI 03	SP 03	SU 03	FA 04	WI 04	SP 04	SU 04	FA 05	WI 05	SP 05	SU 05	FA 06	WI 06
Wetland Expansion																						
Planting wetland plants																						
Monitoring																						
Contingency Planning (planting)																						
Wetland Enhancement																						
Removing nonnative plants																						
Monitoring																						
Reporting																						

References

GretagMacbeth. 2000. Munsell Soil Color Charts. New Windsor, New York.

Natural Resources Conservation Service (NRCS). August 11, 2005. National Hydric Soils List by State, California Portion of the National Hydric Soil List. http://soils.usda.gov/use/hydric/lists/state.html

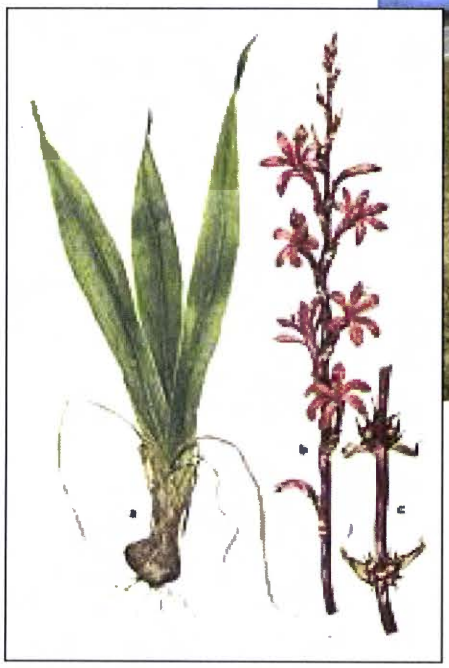
Reed, Jr., Porter B. 1988. National List of Plant Species That Occur in Wetlands: National Summary. U.S. Fish & Wildlife Service. Biological Report 88 (24). 244 pp.

U. S. Army Corps of Engineers (USACOE). May 2010. Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0). Vicksburg, MS.

Appendix A. Photo Guide of Target Nonnative Species for Removal

Periwinkle (*Vinca major*) usually forms a dense mat. Its shiny leaves help to identify this plant when it is not in bloom.

Himalaya Blackberry (*Rubus armeniacus*). This nonnative blackberry is easily recognized from the native California blackberry (*Rubus ursinus*) by its large, robust canes and thorns.



Bearded iris (*Watsonia bulbifera*) is recognized by its tall flowering stalks and wide leaves, which are much longer and wider than the native wild iris (*Iris douglasii*). This photo above shows the infestation of bearded iris in the wetland enhancement site.

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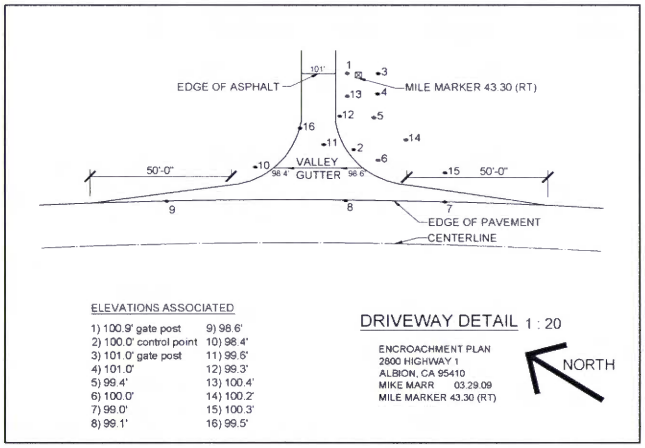


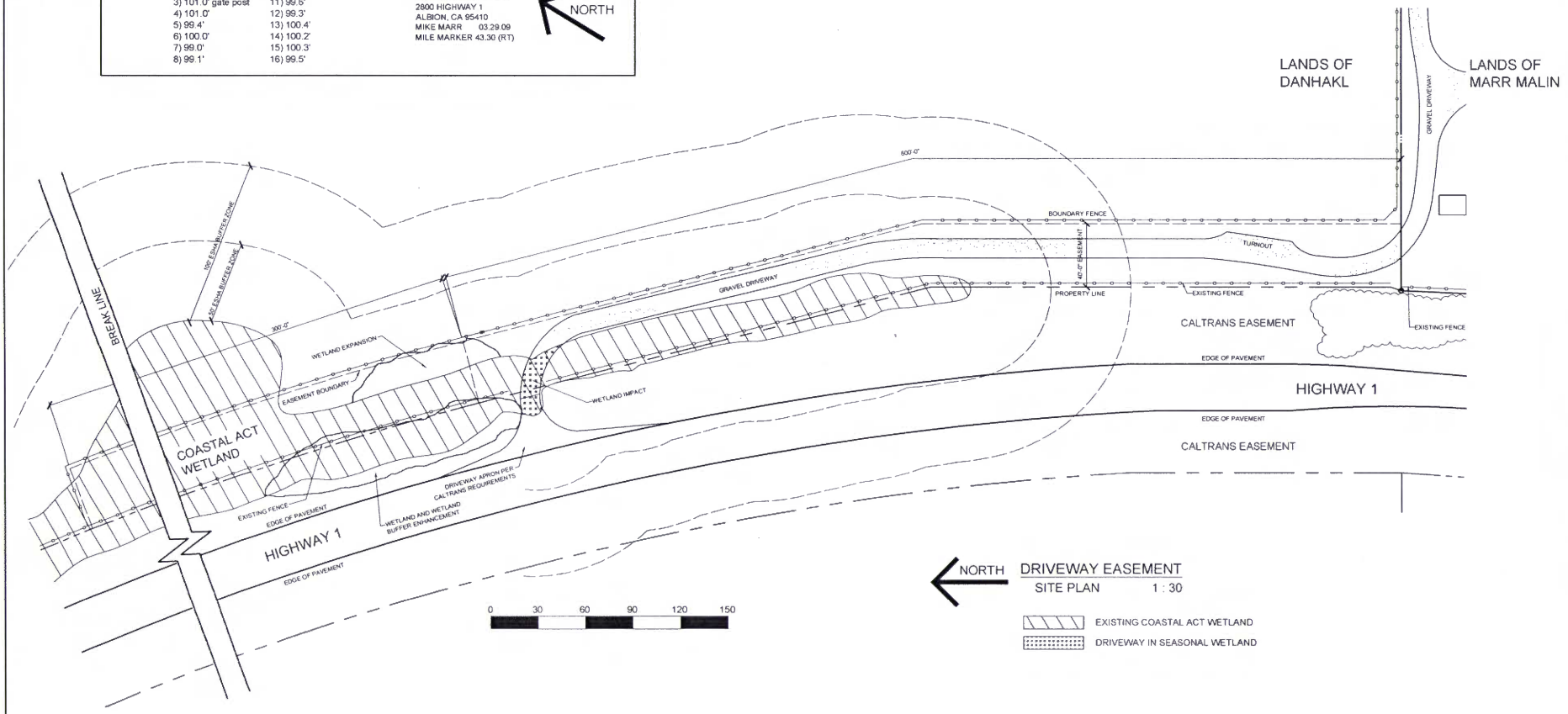
ELEVATIONS ASSOCIATED

1) 100.9' gate post	9) 98.6'
2) 100.0' control point	10) 98.4'
3) 101.0' gate post	11) 99.6'
4) 101.0'	12) 99.3'
5) 99.4'	13) 100.4'
6) 100.0'	14) 100.2'
7) 99.0'	15) 100.3'
8) 99.1'	16) 99.5'

DRIVEWAY DETAIL 1 : 20

ENCROACHMENT PLAN
2800 HIGHWAY 1
ALBION, CA 95410
MIKE MARR 03.29.09
MILE MARKER 43.30 (RT)

NORTH



0 30 60 90 120 150

NORTH DRIVEWAY EASEMENT
SITE PLAN 1 : 30

EXISTING COASTAL ACT WETLAND
DRIVEWAY IN SEASONAL WETLAND

A NEW RESIDENCE FOR:
MICHAEL MARR AND JUDITH MALIN
2800 North Highway One
Albion, CA 95410

STRUCTURAL ENGINEER:
SUMMIT ENGINEERING INC.
463 Aviation Blvd, Suite 200
Santa Rosa, CA 95403
phone 707.527.0775 fax 707.527.0212

BOB
HARTSTOCK
Building Designer
PO BOX 319
36455 TIMBER RIDGE RD
THE SEA RANCH,
CA 95497

phone 707.785.2036
fax 707.785.2125
bobhart@mcn.org

R-PRM: 08/20/10
PRM: 08/08/10
SHEET 2 OF 4

Appeal No. A-1-MEN-09-034 (Marr & Malin, CDP-57-2008)

California Coastal Commission question #2

2. Information Needed to Evaluate Project Consistency with Coastal Act Section 30010: If the project cannot be found consistent with the ESHA and visual resource policies of the certified Mendocino County LCP, the Commission will need to evaluate whether an alternative proposal could be approved, and if not, whether denial of the project would result in an unconstitutional taking of private property for public use. In order to make that evaluation, the Commission needs additional information from the applicants concerning the applicants' reasonable investment-backed expectations to make such determinations prior to holding a *de novo* hearing on the project. Specifically, the landowner of the property that is the subject of A-1-MEN-09-034 must provide the following information for the property that is subject to A-1-MEN-09-034 as well as all property in common contiguous ownership, *i.e*. any immediately adjacent property also owned by the applicant:

2.1) When the property was acquired, and from whom:
- Purchased on 05-04.05 from Don S. Johnston, 16315 Old Casper Rail Rd, Fort Bragg, CA 95437

2.2) The purchase price paid for the property:
- Purchase price $500,000.00
- Closing costs $2,507.97
- Total $502,507.97

2.3) The fair market value of the property at the time it was acquired and the basis upon which fair market value was derived;
- Market value was determined by the Seller and his agent. After spending several years looking for property in the Mendo/Sonoma area it was our view that we paid a fair price for this property.
- In 2009 the Mendocino County Assessor accessed the property at $530,605.

2.4) Whether a general plan, zoning, or similar land use designations applicable to the property changed since the time the property was purchased. If so, identify the particular designation(s) and applicable change(s).
- No changes.

EXHIBIT NO. 14

Property Interest Summary
No. A-1-MEN-09-034 (Marr-Malin)
1 of 4

2.5) At the time the property was purchased, or at any subsequent time, whether the project been subject to any development restriction(s) (e.g., restrictive covenants, open space easements, etc.), other than the land use designations referred to in the preceding question;

- None.

2.6) Whether the size or use of the property changed in any way since it was purchased. If so, identify the nature of the change, the circumstances and the relative date(s);

- No change.

2.7) Whether a portion of, or interest in, the property was sold or leased since the time the applicants purchased it, and the relevant date(s), sales price(s), rent assessed, and the nature of the portion or interest sold or leased;

- Mike Marr was the original buyer. My girl friend Judith Malin was added to the title in 2008.

2.8) A copy of any title report, litigation guarantee or similar document that might have been prepared in connection with all or a portion of the property, together with a statement of when the document was prepared and for what purpose (e.g., refinancing, sale, purchase, etc.);

- A Preliminary title report by FIRST AMERICAN TITLE COMPANY was drafted in March 10 of 2005 for the purpose of purchasing the land. Copy sent to CCC on 09-25-09.

2.9) The approximate date and offered price of any offers to buy all or a portion of the property since the time the applicants purchased the property;

- Property has not been for sale.

2.10) The costs associated with ownership of the property on an annualized basis for the last five calendar years. These costs should include, but not necessarily be limited to, the following:

DESCRIPTION:	5 year total	Annualized
- Property taxes	$27,928.00	$5,585.60
- Project Development Costs	$99,494.00	$19,898.80
- Property Assessments	none	
- Debt Service	none	
- Operational/Management Costs	none	

2.11) Whether apart from any rent received from leasing all or a portion of the property (see question #7 above), current or past use of the property generates any income. If the answer is yes, the amount of generated income on an annualized basis for the past five calendar years and a description of the use(s) that generates or has generated such income.

- Not Applicable.

2.12) "Reasonable investment backed expectations of the property"

1. According to the County Assessor's office, in 2009 the property was valued at $530,605.00 an increase of approximately $30,000 above purchase price.
2. Although we have no intention of selling the property, it should be noted that this is an investment property. Acting as the General Contractor and Builder, we will save 60% of actual out-of-pocket building costs. Costs which will become profit when/if we sell the property. The following calculations are provided to describe this number.

Construction costs for building if we hired a General Contractor:

Description	$/sq-ft	sq-ft	cost
House	$340/sq-ft	2524	$858,160
Covered deck	$100/sq-ft	450	$45,000
Garage	$100/sq-ft	634	$63,400
Guest suite	$175/sq-ft	600	$105,000
Shop	$100/sq-ft	1428	$142,800
TOTAL:			$1,214,360

By building the home/workshop myself, I will net a savings of ($728,616.00) for future profit if we sell.

3. Additional value comes from having the workshop on property and not having to pay rent. And the sooner we get the workshop constructed we can be generating income by working on the coast.

Shop operation calculations:

Rent for shop area = $1,750/month, or $21,000/year
4 years lost = 4 x $21,000 = $84,000

4. Lost income from delays :

$38,000/yr x 4 yr = $152,000

5. Net value of project development:

Description	cost
Building profit (from 2.12.2)	$728,616
Rent for shop (from 2.12.3	$84,000
Lost business opportunity (from 2.12.4)	$152,000
Prop taxes (from 12.10)	$27,928
Development cost (from 12.10)	$99,494
Closing cost (from 2.2	$2,508
Land value (from 2.12)	$530,605
TOTAL:	$1,625,151

OWNERS INTENT:
We ask that the CCC recognize the reason why we selected this property and why development of this property needs to meet our needs if we are able to live and work in Mendocino County. We selected this property because it offered area to build both a workshop and a home. We reviewed the Local Coastal Plan and met with the County Planning Department to review the rules and codes prior to purchase of the property. We hired many local design professionals familiar with the coastal plan, the rural architecture and the county process. We sought out to create a design that not only met our needs but also fits with the landscape and rural character of the coast. We support the coastal plan and we respect the planning process.

Mike is a building contractor and wood worker. Judy is a health care professional. Mike will be building our home and workshop and once established, he will be working in the community building for others and creating custom cabinetry. The workshop will provide affordable space to work, store equipment and materials and earn an income. Our modest sized home will be a full time residence for Mike and Judy and their son. It is also our hope that our aging parents will be able to visit with us and if desired, stay with us as their health allows.

We spent a large portion of our savings on this property because we recognized the beauty of the land, and the surrounding landscape and the town of Albion. We invested 4 years (to date) on developing this project and spent significant money on reports, permits, and design services, as well costs for traveling from the east coast and missed work to pursue this project.

We hope that the CCC recognizes our needs for developing this property and does not pursue a “taking of the property” without fully understanding the loss of income and building opportunity put against us.

HOUSE
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Providing expertise in agricultural science, management, and appraisal since 1977

Agricultural Feasibility Study

Malin-Marr Property, Albion, California

House Agricultural Consultants

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This report supercedes any previous version having a smaller revision number or older publishing date than shown above.

Front matter

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1 Introduction

1.1 Executive summary

In this report we study and report on the agricultural potential of a 4.17-acre rural property in Albion, California. The small size, steep slopes, erosion hazard, and limited water availability of the property are major impediments to commercial farming or ranching. However, the owners desire to maintain the property in agriculture, and we find that the property can be used successfully for part-time farming that combines subsistence-farming, or home-food-production, with local marketing of surplus eggs, honey, and vegetables that will be produced seasonally.

1.2 Organization of the report

This report is organized to go from the broad to the specific, describing the greater geographic area first and then focusing on the subject property in detail. It concludes with an evaluation of a proposed plan to use the property for agriculture, and how this affects the greater neighborhood.

Section 2 describes the geographic area of the subject property and its regional agricultural economy. Section 3 examines the subject property: its physical site characteristics, specific resources, and historical land use. Section 4 reviews the key variables impacting agricultural uses of the property, and evaluates the most suitable uses. Section 5 presents the property owners' proposed agricultural management plan, reviews the impacts of the proposed agricultural management plan on the property and adjoining agricultural lands and examines the economics of the proposed plan.

1.3 Authorization

This study is written under the authorization of Michael Marr and Judith Malin, owners of the property described and analyzed in this study.

1.4 Purpose of report

The purpose of this study is to analyze the feasibility of using the Malin-Marr property for agriculture.

1.5 Intended use of report and intended users

This report is written at the request of the California Coastal Commission and is intended for its use in evaluating the application for a building permit on the Malin-Marr property.

1.6 Identification of subject property

The real estate that is the subject of this report is located at 2800 North Highway One, Albion, California. The Mendocino County Assessor's office identifies this property as assessor's parcel number 123-350-06-00. According to the assessor's plat maps, the area of the subject is 4.17 gross acres in size.

1.7 Scope of work

1.7.1 Methodology

To complete this assignment, we undertook the following actions.

- Reviewed July 18, 2011 request from California Coastal Commission (CCC) for an agricultural feasibility study. A copy of this letter is reproduced in the appendices to this report.

- Reviewed correspondence between CCC and Michael Marr, and CCC and Stephen Butler, the subject property owners' attorney.

- Reviewed letter from M. Biaggi to CCC regarding the agricultural use of the subject property.

- Reviewed the applicable zoning code, and other regulations affecting the subject property.

- Made a field visit to the site and spent approximately one-half day examining the land and vegetation; also collected a soil sample for laboratory analysis.

- Reconnoitered the neighborhood of the subject property for approximately one full day, from Elk to Mendocino on the coast, and inland approximately 10 miles up Albion Ridge Road, examining types of agriculture and potential markets, and evaluating productivity.

- Met with the architect at the site and reviewed his plans for the building development.

- Researched the subject property's soils, climate, water source, biological resources, and land-use history.

- Researched the subject property's range productivity and calculated its its carrying capacity (AUMs).

- Researched crops, yields, and prices from Mendocino County Agricultural Commissioner's office's annual reports, 2006 through 2010; conversed with Chuck Morris, Agricultural Commissioner of Mendocino County, concerning the crops of the subject's neighborhood; researched yields and prices from the National Agricultural Statistics Service; consulted other publications and our own business data files.

- Researched production costs through university cost studies, other publications, and our own business data files.

- Calculated potential net income at county and state level.

- Performed an agronomic analysis of the physical suitability of the subject property for various crops and livestock, including an analysis of soil profile characteristics, soil chemistry, applicable soil conservation practices, quantity of water available, and climate considerations.

- Performed an economic analysis of the economic viability of various agricultural uses of the subject property.

- Evaluated the impacts of the proposed development on the subject site and its neighboring properties.

- Prepared a management plan for the property, including a description of proposed enterprises, capital expenses required, operating expenses, and expected gross and net income.

1.7.2 Sources referenced

Numerous sources referenced on in the preparation of this report have been footnoted in the text. A complete list of references is in the appendices to this report.

1.7.3 Experience and qualifications of report authors

Since 1977, House Agricultural Consultants has provided clients with a wide range of appraisal, consulting, and management services. Clients include farmers, landowners, institutions, insurance companies, law firms, municipalities, public agencies, non-governmental organizations, and many others. A sample list of clients is included in the appendices to this report.

House Agricultural Consultants has prepared numerous studies concerning the agronomics, economics, and agricultural viability of farm properties over the years. We have professionally managed farm properties for over 25 years, and have prepared hundreds of farm management plans and reports on agricultural enterprises ranging from fruit and nut orchards to vegetable crops, field crops, vineyards to cattle ranches, sheep ranches, and goat operations.

Gregory House, co-author of this report, is a qualified expert witness on agricultural matters in California Superior Court, United States Tax Court, and United States Bankruptcy Court. Mr House has over 30 years of experience as an agricultural consultant throughout California and the western states, and is also a farmer of 30 years. Coco Ranch, the family farm, produces organic apples and other organic tree fruits on 40 acres of land near Dixon, California. The resume of Mr House is included in the appendices (page 55). Mr House is credentialed by the American Society of Farm Managers and Rural Appraisers as an Accredited Farm Manager and as an Accredited Rural Appraiser. Mr House is accredited by the American Society of Agronomy as a Certified Professional Agronomist and Certified Crop Advisor. Mr House holds a professional license from the state of California as a Certified General Appraiser, number AG-001999, and is qualified by the USDA-NRCS to prepare conservation plans for government programs.

Jennifer House, co-author of this report, is a farmer, agricultural consultant, and ethnobotanist. She is an Academic member of the American Society of Farm Managers & Rural Appraisers, and has over 30 years experience in agricultural appraisal, contracts, farm planning, and marketing of agricultural commodities. Ms House taught Farm Management and Farm & Rural Resources Appraisal as an adjunct lecturer in the Agricultural Economics Department of the University of California at Davis from 1987 to 1999. She has taught taxonomy and plant usages courses for the University of California at Davis Arboretum, and the University of California at Berkeley Botanical Garden for the past 15 years. Her current activities concentrate on managing the family farm in Dixon, California; however she continues to work with agricultural students and lead seminars for the University of California at Davis.

1.8 Certification

Each undersigned consultant certifies that, to the best of his or her knowledge and belief:

The statements of fact contained in this report are true and correct.

The reported analyses, opinions, and conclusions are limited only by the reported assumptions, and are my personal, unbiased professional analyses, opinions, and conclusions.

I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved.

My compensation is not contingent upon the reporting of a predetermined conclusion that favors the cause of the client, the attainment of a stipulated result, or the occurrence of a subsequent event.

This consulting report has been made in conformity with, and is subject to, the requirements of the Professional Code of Ethics and the Standards of Professional Practice of the American Society of Farm Managers and Rural Appraisers.

I have made a personal inspection of the property that is the subject of this report.

No one other than the undersigned parties prepared the analyses, conclusions, and opinions concerning the subject property that are set forth in this report.

Gregory A. House, AFM, ARA, CPAg

Jennifer House

2 Neighborhood setting and characteristics

2.1 Legal and regulatory setting: Agriculture policies and goals

A research of the official Mendocino County web site indicates the subject property lies within the COASTAL ZONE land-designation area of the current general plan of Mendocino County, which further classifies the subject property as "Base Zoning District RL", and "Coastal Plan Classification RL-160". In chapter 3 of Mendocino County's land-use plan, the intent of the RL use classification is described as follows:

> Policy DE-17:
>
> Land Use Category: RL—Range Lands
>
> Intent: The Range Lands classification is intended to be applied to lands which are suited for and are appropriately retained for the grazing of livestock. The classification should include land eligible for incorporation into Type II agricultural preserves, other lands generally in range use, intermixed smaller parcels and other contiguous lands, the inclusion of which is necessary for the protection and efficient management of range lands. The policy of the County and the intent of this classification shall be to protect these lands from the pressures of development and preserve them for future use as designated.
>
> General Uses: Residential uses, agricultural uses, forestry, cottage industries, residential clustering, uses determined to be related to and compatible with ranching, conservation, processing and development of natural resources, recreation, utility installations.
>
> Minimum Parcel Size: One hundred sixty acres.
>
> Maximum Dwelling Density: One dwelling per 160 acres, County review and approval required for more than one dwelling per legally created parcel.

We note that Mendocino County has determined that the subject property is a legal nonconforming parcel that cannot be subdivided. Therefore one dwelling is permitted on the subject property.

Section 20.456 of the Mendocino County land-use plan permits additional structures on legal (nonconforming) parcels:

> In addition to principle permitted uses ... such use types shall be deemed to include (A) private garages, (B) porches, (D) shops, (E) Barns, (F) Accessory living units.

Because the subject property is located in the coastal zone, it is also subject to the following:

> Sec. 20.532.100 Supplemental Findings.
>
> In addition to required findings, the approving authority may approve or conditionally approve an application for a permit or variance within the Coastal Zone only if the following findings, as applicable, are made:
>
> (A)(2)(a) The proposed use is compatible with the long term protection of resource lands.
>
> (B) Agricultural Land Impact Findings.
>
> (1) Development in Agricultural Zones. No development subject to a coastal development use permit shall be issued on agricultural land until the following findings are made:
>
> (a) The project maximizes protection of environmentally sensitive habitat areas;
>
> (b) The project minimizes construction of new roads and other facilities;

(c) The project maintains views from beaches, public trails, roads and views from public viewing areas, or other recreational areas;

(d) The project ensures the adequacy of water, waste water disposal and other services;

(e) The project ensures the preservation of the rural character of the site.

(f) The project maximizes preservation of prime agricultural soils;

(g) The project ensures existing land use compatibility by maintaining productivity of on- site and adjacent agricultural lands.

(2) Impact Findings for Conversion of Prime Agricultural or Williamson Act Contracted Lands. Conversion of prime land and/or land under Williamson Act

Contract to non-agricultural uses is prohibited, unless all of the following findings are made. For the purposes of this section, conversion is defined as either development in an AG or RL designation not classified as a residential, agricultural, or natural resource use type or the amending and rezoning of the Coastal Element Land Use Designation AG or RL to a classification other than AG or RL including amendments to add visitor-serving facilities.

(a) All agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable;

(b) Agricultural use of the soils cannot be successfully continued or renewed within a reasonable period of time, taking into account economic, environmental, social and technological factors;

c) Clearly defined buffer areas are established between agricultural and non-agricultural uses;

(d) The productivity of any adjacent agricultural lands will not be diminished, including the ability of the land to sustain dry farming or animal grazing;

(e) Public service and facility expansions and permitted uses do not impair agricultural viability, either through increased assessment costs or degraded air and water quality; and

(f) For parcels adjacent to urban areas, the viability of agricultural uses is severely limited by contacts with urban uses, and the conversion of land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.

(3) Impact Findings for Conversion of Non-prime Agricultural Lands. Conversion of all other agricultural lands to non-agricultural uses will be prohibited unless it is found that such development will be compatible with continued agricultural use of surrounding lands and at least one of the following findings applies:

(a) Continued or renewed agricultural use is not feasible as demonstrated by an economic feasibility evaluation prepared pursuant to Section 20.524.015(C)(3);

(b) Such development would result in protecting prime agricultural land and/or concentrate development.

2.2 Geography

We define the subject property's neighborhood as the Mendocino County coastal area spanning from the town of Mendocino, which lies approximately 7 miles north of the subject, to the unincorporated community of Elk (population 208), which lies approximately 7 miles south of the subject, and extending approximately 7 miles inland to the east. The Pacific Ocean forms a natural boundary to the west. Throughout this report we will refer to this defined area as the subject property's neighborhood.

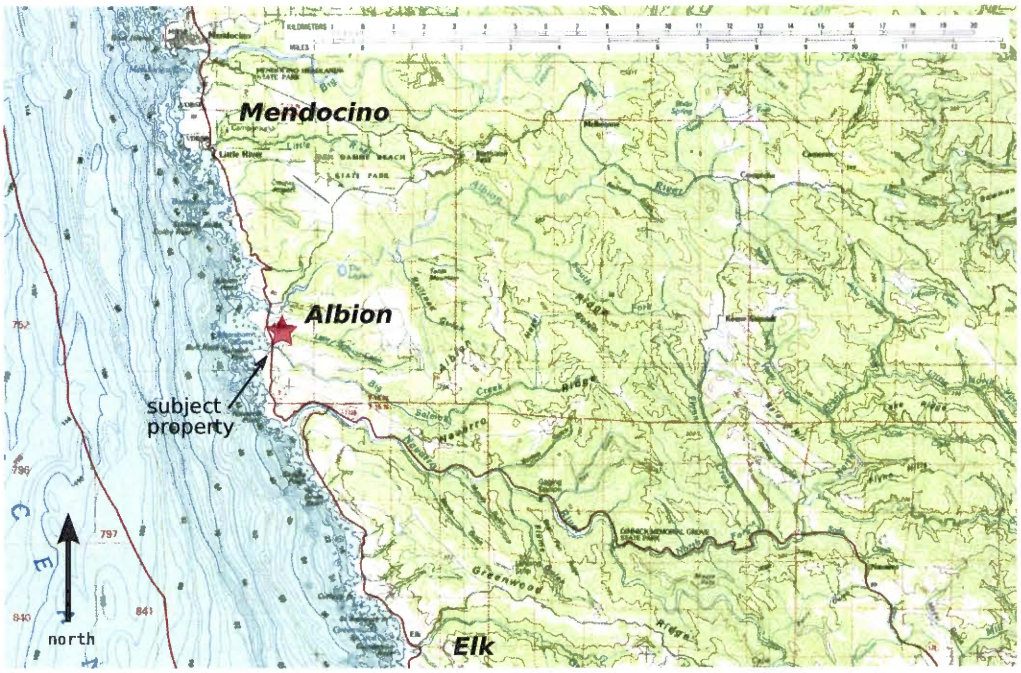

Figure 2.1 Location map of the subject property and its neighborhood.

2.2.1 Elevation

Elevation ranges from sea level at the coast to 1,000 feet several miles inland.

2.2.2 Soils and topography

The topography of the subject property's neighborhood varies from terraces of rolling hills to steep, rugged terrain dissected by canyons with perennial streams that drain into the Pacific Ocean.

2.2.2.1 Formation and classification

The Natural Resources Conservation Service (NRCS, formerly the Soil Conservation Service), a unit of the United States Department of Agriculture, has completed soil surveys of most of the agricultural land in the United States. The NRCS soil surveys are widely used as a objective, consistent measurement of the value of land for agriculture. Both the printed soil-survey book covering the area of the subject property and the most current digital mapping data have been referenced for this study.

The most recent soil survey of the subject's area is the *Soil Survey of Mendocino County, Western Part*. According to this source, the neighborhood of the subject property lies within the general soil map unit of *Ferncreek-Quinliven-Shinglemill*. Older soil surveys referred to these general map units as ASSOCIATIONS and this remains a useful if somewhat outdated description of the relationship of the various soil units found in the map unit.

2.2.2.2 General soil characteristics affecting use of the area soils

Map unit *Ferncreek-Quinliven-Shinglemill* is located on uplifted marine terraces bordering the Pacific Ocean. It consists of very deep, gently sloping to steep, poorly drained to moderately well drained soils that have little seasonal fluctuation in soil temperature and that formed in marine

terrace deposits. The vegetation is mainly redwood, douglas fir, bishop pine and Mendocino cypress.

About 31 percent of this map unit is Ferncreek and similar soils, 25 percent Quinliven and similar soils, 11 percent Shinglemill and similar soils, and 33 percent other soils and miscellaneous areas of minor extent.

Ferncreek soils are somewhat poorly drained. Typically, the surface layer is sandy loam. The subsoil is clay loam, clay, or sandy clay loam. The substratum to a depth of 60 inches or more is sandy loam. Slope ranges from 2 to 30 percent.

Quinliven soils are moderately well drained. Typically, the surface layer is sandy loam. The subsoil is clay. The substratum to a depth of 60 inches or more is sandy loam. Slope ranges from 2 to 50 percent.

Shinglemill soils are poorly drained. Typically, the surface layer is loam. The subsoil extends to a depth of 60 inches or more. It is clay or sandy clay. Slope ranges from 2 to 15 percent.

Of minor extent in this unit are Dystropepts, Tropaquepts, Abalobadiah, Aborigine, Biaggi, Blacklock, Bruhel, Cabrillo, Caspar, Cleone, Crispin, Fishrock, Flumeville, Gibney, Gibwell, Harecreek, Havensneck, Heeser, Iversen, Mackerricher, Mallopass, Seaside, Sirdrak, Stornetta, Tregoning, Vandamme, Vizcaino, and Windyhollow soils. Also included are areas of coastal beaches, duneland, pits and dumps, riverwash, rock outcrop, and urban land.

Most areas of this map unit are used for timber production or homesite development. Some areas are used for recreation. The main limitations in areas used for timber production are seasonal wetness and the slope. The main limitations in areas used for homesite development are the slope, low strength, seasonally saturated soil conditions, and restricted permeability in the subsoil.

2.3 Climate

2.3.1 Temperature

The average annual air temperature is about 53 degrees F for the subject property's neighborhood. The winter months are the coolest, averaging in the low 40s F. A record low of 18 degrees F was recorded in December 1990. The late summer and early fall months are the warmest, averaging in the mid 60s F. A record high of 94 degrees F was recorded in October 1985. While this temperature range is quite moderate, the lack of higher summer temperatures limit the range of crops that the area's cropland will support. Pasture grass thrives under this climate regime, but tree fruits, wine grapes, and summer vegetables such as tomatoes, squashes and peppers do not. One will occasionally see very old apple trees in domestic settings in this area, but the cool temperatures are not conducive to commercial production of even this hardy tree fruit.

The cool, moist air over the Pacific Ocean strongly influences the air temperature in the subject property's neighborhood, minimizing the difference in temperature between the winter and summer months. The difference widens with increasing elevation and distance as one travels inland away from the coast. The strong marine influence that minimizes seasonal fluctuation in air temperature also results in little fluctuation in soil temperature throughout the year.

2.3.2 Precipitation

The average annual precipitation is approximately 38 inches for the subject property's neighborhood. Approximately 96 percent of this rain occurs between November and April.

2.3.3 Sunlight

Sunlight in the Albion area is moderate, with cloudy weather common in the rainy season and coastal morning fog usual in the warmer months.

2.3.4 Length of growing season

The average frost-free period is 250 to 330 days.

2.3.5 Coastal winds

The Albion area is subject to moderate prevailing winds from the west. These winds typically carry cool, saline, moist air.

2.4 Land use history of adjacent lands and the greater coastal Mendocino County area

2.4.1 Current

At the present time the key human land uses for the subject property's adjoining parcels are rural residences; commercial establishments for the tourist trade such as inns, small grocery stores and fueling stations; and cattle grazing. While the grazing land is primarily grassland, a majority of the area remains in native forest. Immediately southwest and adjoining the subject property is a residence at the end of Spring Grove Road. This road, which abuts the subject property on its southern border, continues west and crosses under Highway One, then heads north, looping back to a level intersection with Highway One. Along this interval are approximately ten rural residences within approximately one-quarter mile of the subject property. Approximately one-quarter mile southwest of the subject property (west of Highway One) lies the Pacific Reef Development which contains approximately 35 residences.

Inland, approximately 5 to 7 miles east of the subject property, is a somewhat more level area where there are a higher concentration of rural residences, a solid waste facility for Mendocino County, and several plant nurseries, notably Digging Dog Nursery and Albion Ridge Nursery. Due to the current economic recession, however, plant nurseries that sell to the residential home market have experienced a sharp decline in sales.

Other agricultural activities in the coastal Mendocino area include keeping goats for milk and cheese, chickens for eggs, apiaries, and vegetable production. The vegetables are limited mainly to cool season crops such as leafy greens and root crops. While the real property in the subject's neighborhood is primarily privately owned, portions of this neighborhood are publicly owned, particularly Van Damme State Park which extends from the Pacific shoreline at the community of Little River east approximately 5 miles into the redwood forest.

Chapter 3.2 of the land-use plan of Mendocino County describes the current agriculture of the Mendocino coastal area thus:

> About 3,500 acres of land in the coastal zone are tilled, irrigated or cropped, mostly for forage. Milk production has been reduced to three dairies, and former dairy operators are raising replacement dairy heifers. There are 40 livestock operators in the coastal zone, raising 1,200 head of beef and 4,300 sheep. However, only one-quarter of these farms are operated as the full- time occupation of their owners. Full-time operations are concentrated between

Elk and Point Arena, where the largest areas of prime soils are found. Elsewhere, highly productive soils are found only in small patches, rendering full-time farming uneconomical at this time. North of the Navarro River, agricultural activity has been affected by residential development. This trend is not significant in the Point Arena area, but some farmers, uncertain about the continued viability of agriculture in the coastal zone, may have deferred capital investment. The land use policies of the Coastal Element, with its emphasis on the preservation and enhancement of agriculture, should encourage these landowners to maintain their farms in production.

Coastal agriculture includes several nurseries principally raising fuchsias, azaleas, and rhododendrons. Forty acres near Caspar supports daffodils, suggesting a potential for a bulb industry similar to that in Del Norte County. Many farms sell produce locally and many residents are industrious part-time fruit and vegetable farmers.

Only 10 ranches have "full-time" acreage and are operated as a principal source of income. Minimum parcel sizes for field crops are smaller — about 10 acres of specialty vegetables and general crops is sufficient to realize a return on the cost of production and labor. Marketing is a primary constraint: a few growers could saturate the local market, while a large total acreage (perhaps as many as 1,000 acres of a crop such as Brussels sprouts) would be necessary to make marketing outside the County economically feasible.

2.4.2 Historical

The cool, moist coastal terrace soils have historically been used to produce a number of crops such as hay, berries, potatoes, peas, and other field and truck crops. Pasture for dairy cows and pasture and range for beef cattle and other livestock also have been historically significant uses.

Chapter 3.2 of the land-use plan of Mendocino County relates the agricultural history of the Mendocino coastal area as follows:

> Coastal terraces and bottom land historically were farmed in small units by families dependent on agriculture for their livelihood. Potatoes, truck crops, hogs, poultry, beef cattle and dairies did well and farm products were sold both locally and outside the area. However, in the past 30 years, government regulations and technological changes in food processing and trucking have encouraged large-scale, centralized agricultural operations, ill-suited to the coast's small areas of prime soils, relatively small land holdings, and family-run enterprises. Since the late 1960's, commercial coastal agriculture has consisted primarily of livestock and dairy farms and flower and plant nurseries.

2.4.3 Proximity of agricultural and urban land uses

The adjoining property to the north and east of the subject is used for cattle grazing. This is the only nearby agricultural land use. A residence on Spring Grove Road is approximately 200 feet from the southern boundary of the subject. Another residence is approximately 700 feet to the northwest of the subject property, lying between Spring Grove Road and Highway One.

2.4.4 Agricultural operations in area utilizing more than one parcel

Based on Mendocino County Assessor data and information from the Mendocino County Agricultural Commissioner, the only agricultural operation utilizing more than one parcel in the subject property's neighborhood is the cattle ranch of Mike Biaggi who rents the land adjacent to the subject property.

2.4.5 Agricultural land uses not dependent on soil such as nurseries, greenhouses, caged-poultry operations (battery hens) and apiaries

As noted above, there are several plant nurseries located approximately 5 to 7 miles inland from the Pacific Ocean amid redwood forest on the more level Albion Ridge area. Noyo Food Forest, near Fort Bragg, produces warm season vegetables such as tomatoes in greenhouses. Small holders in the area keep free-range, or pastured, chicken flocks and produce small quantities of eggs mostly for home consumption, but there are no battery-hen operations in the area now. There are several local beekeepers who have apiaries in numerous areas of the county, and sell their honey locally: Lovers Lane Farm in Ukiah, Happy Bear Honey in Mendocino, and Mendocino Gold in Ukiah.

2.5 Agricultural economics

2.5.1 Historical gross income of area crops per Mendocino County Agricultural Commissioner's crop reports

2.5.1.1 Overall per acre average of Mendocino County agricultural production

We calculate the average per acre gross income statistic for all Mendocino County's agricultural production from two sources, the 2010 Mendocino County Agricultural Commissioner's annual report and the California Statistical Abstract.[1] From the former source we note a total of $173,864,818 total gross income for all agricultural commodities produced in Mendocino County in 2010, and also the acres of fruit and nuts, nursery, vegetables, and field crops which include pasture and range land; in 2010 these totaled 754,892 acres in Mendocino County. From the latter source we also note that Mendocino County has 854,000 acres in the timber production zone. Since the gross income reported by the Agricultural Commissioner for all commodities includes timber and other forest products, we have added the two acreage figures to arrive at an estimate of all land in Mendocino County that produces agricultural commodities: 1,609,000 acres. Dividing the total gross income of $173,864,818 by the 1,609,000 acres allows us to estimate the average gross income for all Mendocino County agricultural land at $108 per acre.

2.5.1.2 Gross income of selected crops

The top agricultural commodities produced in Mendocino County, documented by the Mendocino County Agricultural Commissioner as "Million Dollar Crops" are wine grapes, timber, cattle and calves, Bartlett pears, pasture, milk, nursery, Bosc pears, apples, red pears and irrigated pasture.

Of these, only cattle, pasture and nursery products are produced in significant quantity in the subject property's greater area, the Mendocino coast; however, pasture is reported as dollar value per Animal Unit Month, or AUM. Chuck Morse, the Mendocino County Agricultural Commissioner explained in a personal communication that this dollar value refers to leased pasture, not land grazed by the landowner's own herd. Since it is the rental value of the land only, and does not refer to the production of any agricultural commodity per se, and therefore will not lead to further analysis of profitability, we have omitted it from further consideration in this study.

[1] Reference: ⟨www.dof.ca.gov/html/fs_data/stat-abs/sec_G.htm⟩, table G-29 for acres of timber production.

For the two commodities, cattle and nursery, adequate and distinct economic records concerning production yields and gross dollar value are published by the Mendocino County Agricultural Commissioner. The economic value of cattle is reported as dollars per hundred pounds (cwt) of live weight. The economic value of nursery products is reported as total dollars without reference to quantity of product but for analysis can be converted to dollars per acre as the acres used for nursery are reported.

Although not as common on the coast as cattle and nurseries, vegetable crops are also reported with distinct data by the Mendocino County Agricultural Commissioner, and are stated to include "beans, sweet corn, garlic, herbs, melons, peas, potatoes, squash, tomatoes, etc." The economic value of vegetables is reported as total dollars without reference to quantity of product but for analysis can be converted to dollars per acre as the acres used for vegetables are reported.

Other commodities of interest in this study, such as meat goats, eggs, and honey are not produced in sufficient quantity to justify separate reporting by the Mendocino County Agricultural Commissioner. Instead they are grouped in the larger categories of Miscellaneous Livestock and Miscellaneous Livestock Products. Miscellaneous Livestock consists of livestock other than cattle, sheep, or hogs, and include pigeons, poultry, goats, turkeys, bison, and aquaculture. Miscellaneous Livestock Products include eggs, apiary, emu, cheese, manure and ostriches. The economic value of these miscellaneous categories are only reported by the Mendocino County Agricultural Commissioner as total dollars, with no separate units such as number of eggs or pounds of honey or cheese.

Because of this lack of county price and production information, we have utilized national statistics from the USDA Economic Research Service for honey and eggs.[2] Live goat prices are not even available from the USDA. We have therefore utilized University of California Cooperative Extension information[3] for the price of live goats, supplemented by our own recent market transaction information.

Table 2.1 assembles these data for the most recent five years for which records are available, 2006 through 2010 from the Mendocino County Agricultural Commissioner's crop reports, USDA, and the University of California Cooperative Extension. However, it is understood that these records are for the entire county, state, or entire country, and therefore provide only broad averages rather than information specific to the subject property's neighborhood. Table 2.1 presents the average of five years (2006 through 2010) of gross income data for the following commodities in Mendocino County: vegetables, nursery products, live cattle, live goats, eggs, and honey.

The subject property is zoned as rangeland by Mendocino County and has only limited potential for other agricultural uses, issues which will be considered in detail in section 4. At this point in our study, however, it is important to note that because of these limitations, in its current state the subject property's productive potential ranks economically somewhere in the lower half of the range between the highest and lowest dollar-value agricultural enterprises of Mendocino County.

2.5.2 Operational costs excluding cost of land in geographic area

Farming and ranching business costs include direct production costs, business overhead, and depreciation of fixed assets such as equipment or buildings needed for the operations. Production

[2] Reference: USDA/ERS's *Agricultural Outlook: Statistical Indicators*, table 13, "Poultry & Eggs", ⟨www.ers.usda.gov/Publications/AgOutlook/AOTables/⟩ (retrieved 2012-04-11); USDA/ERS's *Sugar and Sweeteners: Recommended Data*, table 47, "Honey: number of colonies, yield, production, stocks, price, and value by top producing States and United States", ⟨www.ers.usda.gov/Briefing/Sugar/Data.htm⟩ (retrieved 2012-04-11).

[3] Davy, J.S., et al., *2010 Sample Costs for a Goats for Meat Operation in Northern California*, University of California Cooperative Extension.

Commodity	Total value	Reporting units	Value per unit
vegetables	$1,030,920	acres	$3,222 /ac
nursery	$3,314,580	acres	$50,994 /ac
live cattle	$6,305,680	cwt	$82.37 /cwt
live goats	–	head	$200 /head
eggs	–	dozen	$1.13 /dozen
honey	–	hive	$84.45 /hive

Table 2.1 Five-year gross income average of selected Mendocino County agricultural commodities. Nursery, vegetables, and cattle values from Mendocino County Agricultural Commissioner's annual crop reports 2006–2010; goats, eggs and honey from other sources — see text, section 2.5.1.

Enterprise	Full investment amount	Annual depreciation	Per production unit
vegetables	$1,401	$145	acre
nursery	$16,618	$1,612	acre
live cattle	$128	$12.80	cwt
live goats	$372	$37.16	head
eggs	$0.53	$0.05	dozen eggs
honey	$195.57	$1.96	hive

Table 2.2 Estimated investment of selected Mendocino Coast agricultural enterprises. The investment is expressed both as the full, up-front investment and as an annual depreciation charge based on a 10-year straight-line basis.

costs and business overhead are commonly referenced as "cash costs" as they are expenses that are paid when occurred. Depreciation is often considered a "non-cash cost" because it is not paid during the operating period during which the production occurs, but instead represents capital investment costs fully paid in advance, and permitted by tax law to be deducted over a period of years in bookkeeping and tax compliance reporting. Depreciation is thus more properly understood as the repayment over time of the investment required to set up the business and launch the income stream. For purposes of clarity, then, we present table 2.2 to illustrate the substantial investment costs that are required for each enterprise examined in this study. However, in table 2.3 we consider only the cash costs of producing the crops and products, so that operating costs are only "cash costs" paid in the year incurred. In addition, we note that the cost of acquiring land for any of these enterprises is specifically excluded from this study, as land is generally not depreciable.

Table 2.3 presents estimated current costs for agricultural enterprises for the farm commodity categories discussed in section 2.5.1. Live goats raised for meat are the example used to illustrate the Miscellaneous Livestock category of section 2.5.1, and eggs and honey are presented as two examples of the Miscellaneous Livestock Products category. The cost estimates are based on cost studies from the University of California Cooperative Extension (UCCE), and on studies and research of our professional work in agriculture. As the UCCE cost studies date from 1976 (for honey) to 2010 (for goats) our cost estimates have been adjusted by the Prices Paid Index published by USDA[4] for the applicable time period, thus bringing all costs current to the end of 2011.

Enterprise	Operating	Overhead	Total	Production unit
vegetables	$2,295	$185	$3,612	acre
nursery	$14,251	$27,529	$41,780	acre
live cattle	$79.63	$2.54	$82.17	cwt
live goats	$132	$9	$141	whole animal
eggs	$0.89	$0.07	$0.96	dozen eggs
honey	$61.20	$4.50	$65.70	hive

Table 2.3 Estimated production costs of selected Mendocino coast agricultural enterprises. All figures are in dollars per production unit.

Enterprise	Gross income	Production costs	Net income	Per unit
vegetables	$3,222	$2,480	$742	acre
nursery	$50,994	$42,752	$8,242	acre
live cattle	$82.37	$92.34	⟨$9.97⟩	cwt
live goats	$200	$141	$59	head
eggs	$1.13	$0.96	$0.17	dozen
honey	$84.45	$65.70	$18.75	hive

Table 2.4 Estimated net income of selected Mendocino coast agricultural enterprises.

Table 2.3 presents the two categories of cash costs, production and overhead, and their total for each of the six agricultural enterprises selected to illustrate the economics of the Mendocino coastal area in which the subject property is located.

2.5.3 Net income for selected agricultural enterprises in Mendocino coast area for past five years

Table 2.4 combines the gross income information of table 2.1 with the cost estimates of table 2.3 to present the estimated net income of the six example agricultural enterprises for the Mendocino coast area. All are profitable based on the data presented with the exception of live cattle, which is not profitable based on these data.

2.5.4 California per acre average returns-to-operator

Comparing and rating the various enterprises for profitability is an important step in proceeding with a farm plan. As previously noted, because the Mendocino County data is reported in various units such as acres, cwts, and AUMs (and we have also added head, dozen and hives as other units from the USDA data) it is difficult to make direct comparisons between the various enterprises, and there is no simple way to covert all into one unit — acres — for comparison.

For this reason we turn to the USDA's Economic Research Service (USDA/ERS), which compiles mass data from its Census of Agriculture conducted every five years, and from other sources

[4] United States Department of Agriculture, National Agricultural Statistics Service, Agricultural Prices, Released January 31, 2003; January 21, 2007; January 31, 2010; January 31, 2011; January 31, 2012; Prices Paid Indexes, Monthly, Items Used for Production, Interest, Taxes, and Wage Rates

annually. Among other things these data include, for each of the 50 states, the total acres of farmland (used for any and all agriculture—crops, pastures, forestry) and the total RETURNS TO OPERATORS of farms. This latter statistic estimates the net farm income less any value attributed to on-farm dwellings, thus excluding the rental value of any farm dwellings.

According to these data, for the five years 2006 through 2010, California's average return-to-operator was $8,707,180,000. During the same time period the total farmland was 25,364,695 acres. Dividing the former by the latter, the average return-to-operator for 2006 through 2010 in California was $343 per acre.

The $343 per acre return-to-operator figure for all of California greatly exceeds even the Mendocino County average gross income per acre, which we calculated to be $108 per acre in section 2.5.1.1. The major reason for this great disparity between Mendocino County and the state average is that while California has 37.3 percent of its entire farmland in cropland (years 2006 through 2010), Mendocino County has only 1 percent of its total farmland in cropland (that is, such crops as fruits, vineyards, nursery, and vegetables). A similar disparity is present in the woodland category, with Mendocino County having 53 percent of its total farmland in timber production, while on average California only has 5 percent. On the other hand the statistics are better matched in percentage of pastureland, with California at 52 percent pastureland to Mendocino County's 46 percent.[5]

Notwithstanding these discrepancies, the California farmland returns-to-operators average of $343 per acre is a useful guideline for understanding the potential returns in farming the subject property, and will be used in this study as means of evaluating the potential of the subject property, and the outcome of this farm plan.

2.5.5 Markets

Markets for agricultural products produced on the subject property are best discussed in terms of scale and volume. Locally farmers can make direct sales to grocery stores, restaurants and inns, at several farmer's markets and through subscription-delivery as in Community Supported Agriculture (CSAs). These local markets are generally supportive of local agriculture and make good potential outlets for selected agricultural products from the subject property. Our inquiries in March 2012 at local inns, restaurants and grocery stores indicate good demand and a strong preference for locally produced food, including pastured eggs, meat, honey and vegetables. The sales volume is quite limited, however, by the low resident population and functional limit of tourism.

An inquiry at the local Albion market indicated that the local butcher cannot buy live animals or carcasses for processing and resale unless the meat is certified by California meat inspectors. This is not practical for the subject property. The local butcher can, however, perform cut-and-wrap service if customers provide a fresh slaughtered animal carcass.

Larger markets, whether retail or wholesale, are more distant in the population centers such as Santa Rosa and the Bay Area, which are several hours by motor vehicle from the subject property. This puts the subject at a disadvantage compared to the many farms which are located closer to these urban centers.

[5] Sources: ⟨www.ers.usda.gov/StateFacts/CA.htm⟩, 2010 Mendocino County Agricultural Commissioner's Report, and California Statistical Abstract.

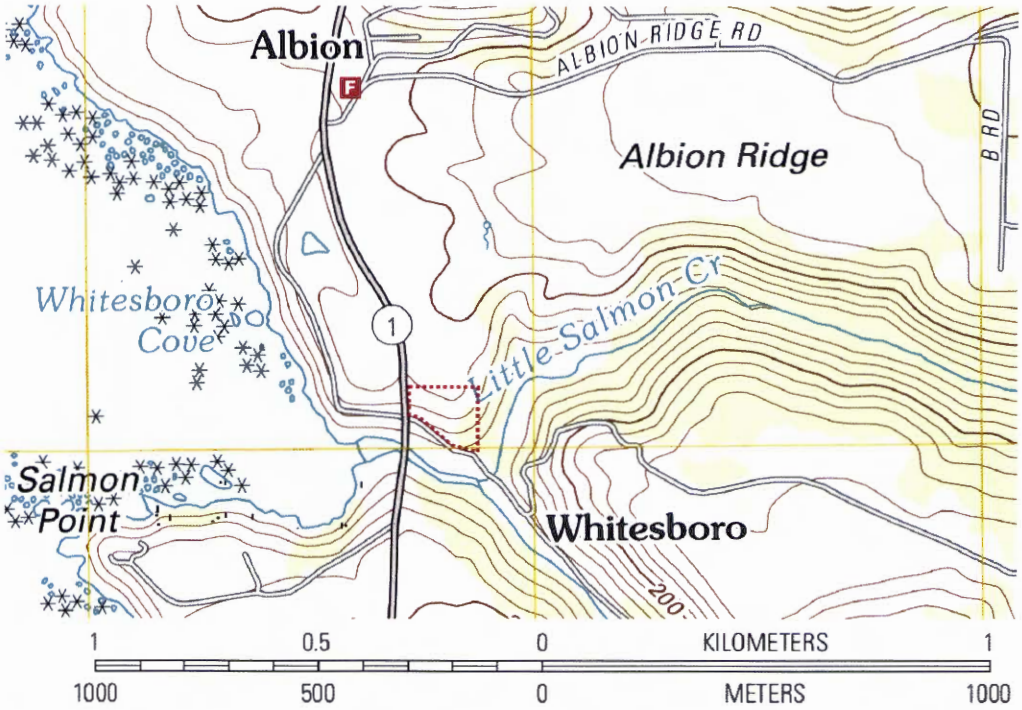

Figure 3.1 Topographic map of the subject property (shown as dotted red outline—location approximate—consultants' estimate, not an accurate survey), from the the United States Geological survey's topographic map of the Albion Quadrangle, 7.5-minute series (2012 edition). Contour interval 40 feet. Universal Transverse Mercator projection (zone 10).

3 Site characteristics

3.1 Location and size

The subject property is 4.17 gross acres in size, according to the Mendocino County Assessor's Office. It is located at 2800 North Highway One, Albion, California, and is approximately three miles from the Albion Post Office, grocery store and hardware store located near the intersection of Highway One and Albion Ridge Road. Figure 2.1 illustrates the subject property's location on the Mendocino coastal area of California.

3.2 Topography

The subject property is located on a hilly marine terrace with shear cliffs formed by mass wasting. The land on this parcel slopes in multiple directions, primarily to the east, southeast, and south; the latter being a shear cliff, and the former a steeply sloping forested hillside. Figure 3.1 illustrates the topography.

3.3 Soils

The subject property consists of two soil units identified by the *Soil Survey of Mendocino County, California, Western Part*. Based on a delineation using the interactive Web Soil Survey of the

United States Department of Agriculture Natural Resource Conservation Service, the subject property contains approximately 60 percent, or 2.5 acres of soil unit 139, *Dystropepts, 30 to 75 percent slopes*, and 40 percent, or 1.67 acres of soil unit 117, *Cabrillo-Heeser complex, 0 to 5 percent slopes.* The *Cabrillo* soil is classified as fine-loamy, mixed, isomesic Ultic Haplustalfs. The *Dystropepts* soil falls within the Dystropepts class of soils.

3.3.1 Storie index and USDA capability classification ratings

The soil surveys depict SOIL UNITS, which are distinct areas of soil that have a common physical origin and perform similarly under agricultural use. To permit objective comparison of soils, NRCS has devised the LAND CAPABILITY CLASSIFICATION SYSTEM, which rates soil units on a scale of I (most favorable) to VIII (the least favorable). These eight Roman-numeral levels, which are referred to as CAPABILITY CLASSES, broadly indicate the agricultural utility and adaptability of the soil. Class I is the best rating, indicating few or no limitations to the land's agricultural uses and adaptability to many different crops. As the Roman numeral increases, the limitations to agricultural uses and management requirements for successful use increase. A class-II soil, for instance, can be used for many of the same uses as a soil rated class-I, but will typically yield less, require special management, or both. Typically cropping uses cease after class-IV; class-V through class-VII soils are typically used for livestock range or timber. Class-VIII soils are typically rocky outcroppings, gravel beds, and the like, with very minimal agricultural utility. Capability classes are specific to the irrigation regime (irrigated or non-irrigated); thus some soil units have two ratings, one when irrigated and one when not irrigated (inferior, reflecting a penalty for lack of water). Some soil ratings incorporate a penalty for seasonal flooding. The soil surveys also demarcate land areas that are not properly considered soils (called LAND-TYPE UNITS rather than soil units in this context); examples include permanent water and quarries. Such non-soil land types, which are unsuitable for cropping or forage production, are not assigned any capability rating. Within the capability classes, further characterization of the soils may be specified by additional letter and numeric suffixes following the Roman-numeral; these indicate the type or types of limitations likely to be present in these soils. The suffixes are not used, however, with the class-I rating, as class-I indicates essentially no limitations to agricultural use. The full rating code (Roman-numeral class plus any additional suffixes) is called the CAPABILITY UNIT.

Some California soil surveys use an alternative rating system, in addition to or in place of the capability-class system, known as the STORIE INDEX, which is a simple numerical scale from one to one-hundred. Larger numbers indicate better fertility and lesser limitations on agricultural use according to a complex analytical formula of numerous factors developed by Dr. Earl Storie of the University of California. The *Soil Survey of Mendocino County, Western Part* does not give specific Storie Index ratings for the soil units it maps. The USDA's Web Soil Survey, an on-line mapping service offers a partial Storie Index rating for the Mendocino coastal soils, by indicating in which grade the soil units fall. For simplification, six soil grades are identified by combining soils having ranges in Storie index ratings as follows: Grade 1 (excellent): Soils that on the Storie Index rate between 80 and 100 per cent and which are suitable for a wide range of crops including alfalfa, orchard, truck and field crops. Grade 2 (good): Soils that rate between 60 and 79 per cent and which are suitable for most crops. Yields are generally good to excellent. Grade 3 (fair): Soils that rate between 40 and 59 per cent and which are generally of fair quality with less wide range of suitability than grades 1 and 2. Soils in this grade may give good results with certain specialized crops. Grade 4 (poor): Soils that rate between 20 and 39 per cent and which have a narrow range in their agricultural possibilities. For example a few soils in this grade may be good for rice but not good for many other uses. Grade 5 (very poor): Soils that rate between 10 and 19 per cent are of very limited use except for pasture because of adverse conditions such as shallowness, roughness,

and alkali content. Grade 6 (nonagricultural): Soils that rate less than 10 per cent include, for example, tidelands, riverwash, soils of high alkali content and steep broken land.[6]

3.3.2 Soil quality: slope, depth, drainage, capability ratings, and texture

According to the *Soil Survey of Mendocino County, Western Part*, the *Dystropepts* soil unit is used as watershed or wildlife habitat. It is severely limited by slope, effective rooting depth and erosion hazard. The capability classification is VIIe(4), non-irrigated. It is not rated by the California Storie Index.

According to the *Soil Survey of Mendocino County, Western Part*, the *Cabrillo-Heeser complex* soil unit is used mainly for recreation, homesite development, livestock grazing, hay production, or pasture. A few areas are used for production of bulbs and vegetables. The capability classification of this *Cabrillo-Heeser complex* soil is IIIw-2(4), non-irrigated, and if irrigated, IIw-2. If this soil unit is used for crop production, the main limitation is the droughty nature of the Heeser soil and the seasonally saturated conditions of the Cabrillo soil. This soil unit is rated Grade 3, fair, by the California Storie Index.

3.3.3 Soils description

The *Dystropepts* soil unit consists of soils on side slopes of marine terraces. These soils formed in material derived from sandstone or shale. The vegetation is mainly brush or grass and grand fir, douglas fir, and redwood. Dystropepts are shallow or moderately deep to bedrock and are well drained. Included in mapping are small areas of other different soil units, areas of rock outcrop, and areas of mass wasting along ocean bluffs. Also included are small areas that have slopes of 15 to 30 percent or 75 to 99 percent. These included areas make up about 25 percent of the total acreage of the unit. The percentage varies from one area to another. Permeability and available water capacity are extremely variable in the Dystropepts. The effective rooting depth is limited by bedrock at a depth of 10 to 40 inches. Surface runoff is rapid or very rapid, and the hazard of water erosion is severe or very severe.

The *Cabrillo-Heeser complex* soil unit has both Cabrillo sandy loam and Heeser sandy loam intermingled such that the soil survey found it impractical to map them separately. The vegetation of this soil unit is mainly perennial grasses and forbs. The soils of this complex are very deep and effective rooting depth expends to 60 inches or more. Water holding capacity is moderate, at 0.11 to 0.13 acre-inches/inch in the top 30 inches of soil; the subsoil varies according to soil specie, with the Cabrillo soil remaining moderate at 0.14 to 0.16 acre-inches/inch in the subsoil, while the Heeser soil, with its sandy texture, lowers to 0.07 to 0.10 acre-inches/inch water holding capacity in the subsoil.

The Cabrillo portion was formed in marine sediments, has moderately slow permeability and is somewhat poorly drained. The Cabrillo soil has moderate available water holding capacity but effective rooting depth in this soil can be limited by saturation for brief or long times during the rainy season. The saturation zone typically starts between 30 and 48 inches below the soil surface, and extends to a depth below 60 inches. Surface runoff is very slow or slow, and if the surface is left bare, as when tilled, there is a slight hazard of water erosion.

[6] Referenced from *Storie Index Soil Rating* Division of Agricultural Sciences, University of California, Publication 3203, Revised December 1978.

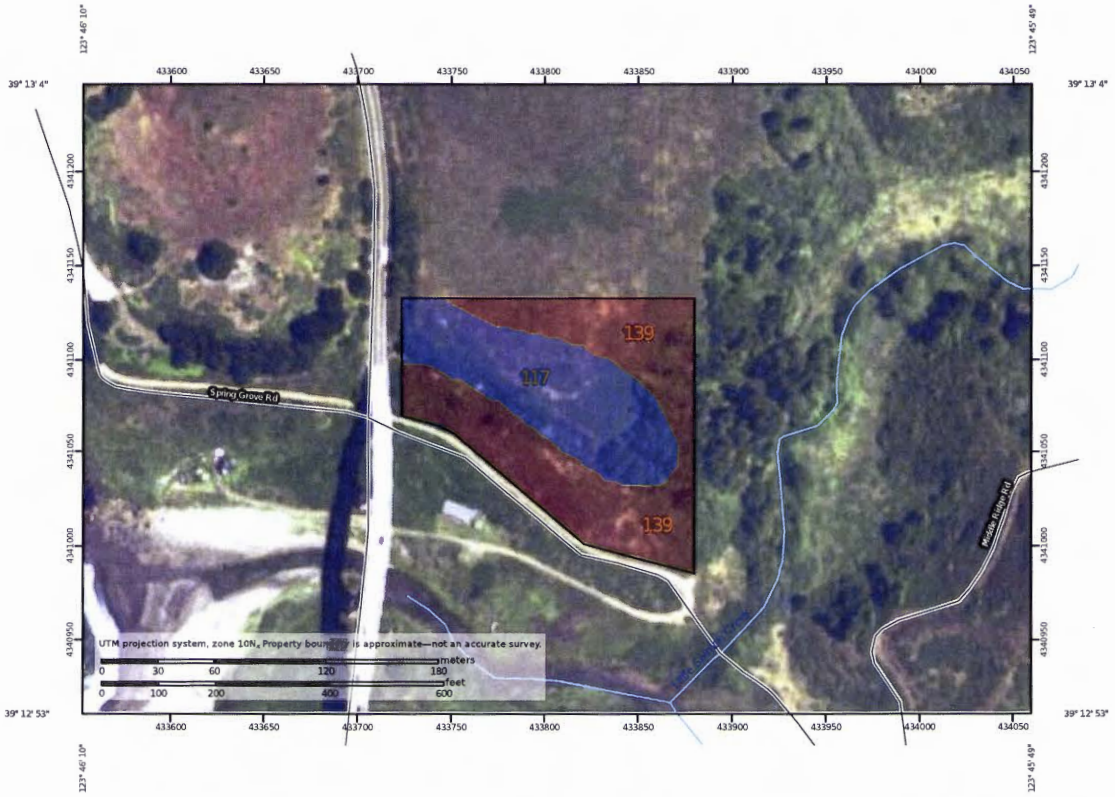

Figure 3.2 Soils of subject property[8]. See narrative for descriptions of the soil units. 117 refers to *Cabrillo-Heeser complex* soil unit, and 139 refers to *Dystropepts* soil unit.

The Heeser portion was formed in eolian sands, has moderately rapid permeability and is somewhat excessively drained. This leads to droughty conditions in the non-rainy seasons; as noted, the sandy texture of this soil allows for only moderate available water holding capacity. Surface runoff is very slow or slow, and if the surface is left bare, as when tilled, there is a slight hazard of water erosion.

Wind erosion is also a substantial hazard for both soil components of the *Cabrillo-Heeser complex* soil unit, as this unit is rated as in in wind-erosion group 3.[7]

Figure 3.2 illustrates the location of the soil units on the subject property.

3.3.4 Area useable for agriculture

Close examination of the soil survey overlaid with the subject property's boundary using the Web Soil Survey website reveals that approximately one-third of an acre of the area mapped as *Dystropepts* appears to be relatively flat and have been grazed in the past, and approximately the same amount, one-third of an acre of the area mapped as *Cabrillo-Heeser complex* appears on the Web Soil Survey website to be steep and forested, and not grazed.

We spent considerable time on the site walking the property to confirm this observation. We examined the slope, the resident vegetation, and the soil texture of these areas. It is not unusual to

[7] Rating and definitions of WIND-EROSION GROUP were obtained from ⟨soils.usda.gov/technical/handbook/contents/part618p7.html⟩. This system rates soils from 1 to 8 in susceptibility to wind erosion, with 1 being the most susceptible and 8 not susceptible.

[8] The boundary of the subject property shown is approximate — not an accurate survey.

find slight discrepancies of this type in the soil surveys. As the *Soil Survey of Mendocino County, California, Western Part* states on page 23,

> Areas of soils of a single taxonomic class rarely, if ever, can be mapped without including areas of other taxonomic classes. Consequently, every map unit is made up of the soils or miscellaneous areas for which it is named and some "included" areas that belong to other taxonomic classes.

Our on-site observations bear out the conclusion that overall the subject property has 1.67 acres that are usable for agriculture; this estimate will be utilized in this study for calculation purposes.

3.3.5 Soil analysis by HAC

On 2012-03-09 we collected a composite soil sample from four locations on the subject property, all of which lie within the *Cabrillo-Heeser complex* soil unit. The sampling depth was 0 to 12 inches. No impervious layers were detected.

The soil sample was shipped to AgSource Laboratory in Lincoln, Nebraska. The laboratory performed routine soil analytical tests for soil fertility and salinity on the sample and reported the results on 2012-03-20. The complete results are reproduced in the appendices to this report (see page 63). The appendices also include a section describing the soil properties tested for and their significance; see section 8 on page 47.

In brief, the soil sample returned a pH of 5.3, indicating a highly acid soil with consequent limited availability of key plant nutrients including phosphorus. Application of lime to increase the pH is indicated, at a rate of 6 tons per acre (see section 8.3). Organic matter is quite high at 6.4 percent, indicating the soil has been well managed and not tilled. The cation-exchange capacity (CEC) is mid-range at 16.6, consistent with a sandy loam soil as described in the soil survey. There are no evident soluble salt problems measured as electrical conductivity (mmhos/cm); sodium content is in the satisfactory range. The calcium to magnesium ratio is a healthy 2.4:1, and therefore good soil structure is indicated, as we observed. The macro-nutrients nitrogen, phosphorus, and potassium, plus other minor nutrients including calcium and sulfur are present in low supply, however; this warrants supplementation for improved crop production.

3.3.5.1 Management techniques that could be used to improve soil quality

The following practices and soil management techniques can be used to improve the soil quality.

1. The soil of the subject property should be kept vegetated at all times to avoid water and wind erosion.

2. Soil cultivation should be limited to raised beds that have a impervious perimeter structure to prevent erosion. Planting leguminous cover crops in the beds will assist in developing fertility and tilth. The use of chemical fertilizers should be avoided. Animal manure can be added as a supplemental fertility source. Poultry manure is particularly high in phosphorus. Adding agricultural lime to the soil will raise the pH and help with plant nutrient availability.

3. Irrigation water should be applied to these soils in amounts that are sufficient to wet the root zone but limited to minimize the leaching of plant nutrients. Attention should be given to the seasonally saturated soil conditions of the Cabrillo soil which reduce the amount of irrigation water needed.

4. Managed rotational grazing can improve the diversity of the forage species present as well as the total yield of forage. Grazing should commence when the grass is 6 to 8 inches tall and be discontinued when the grass is 3 to 4 inches tall. A series of small paddocks is essential to practice

rotating the grazing in this manner. The paddocks can be constructed of permanent fencing or utilize the movable electrified fence systems now widely available.

3.3.6 Expected animal-unit-months (AUMs)

According to the *Soil Survey of Mendocino County, Western Part*, the *Cabrillo-Heeser complex* soil unit is located in the *Perennial Grass—Sandy Loam Terrace (4b)* range site. The characteristic vegetation is 45 percent bentgrass, 15 percent common velvetgrass, and 15 percent sweet vernalgrass. The most recent soil survey[9] states this soil unit will produce 3,600 pounds of dry weight vegetation per acre in a normal-rainfall year. In our own experience this forage productivity compares very favorably with most California rangeland. The *Dystropepts* soil unit is not rated for rangeland productivity by the soil survey, and is not recommended for grazing use.

The 3,600 pounds of dry matter includes all grass, forbs, and the current year's growth of leaves, twigs, and fruits of woody plants, whether or not it is palatable to grazing animals. Our site inspection indicates the subject property's range has a high percentage of palatable forage. We are therefore comfortable using the 3,600 pounds as a starting point for our AUM calculations below.

The soil survey does not calculate the Animal Unit Months (AUMs) for any of the soil units described in the survey; therefore we have performed our own calculations based on a preferred range conservation practice as described by the University of California's California Rangelands Research and Information Center in its publication *California Guidelines for Residual Dry Matter (RDM) Management on Coastal and Foothill Annual Rangelands.* Sustainable management of the forage resource of soils requires that a portion of the vegetation remain on the soil surface uneaten at all times to protect the soil from erosion, and to insure that the desired species remain or can re-populate. In practice this typically means that a minimum 3 to 4 inches of growth, measured from the ground surface upward, remain in place at all times. This can be casually ascertained by observation. When looking down onto the grass, no bare surface soil should be visible at any time.

By use of this recommended conservation practice the rancher will generally be utilizing the forage resource at or below its carrying capacity. CARRYING CAPACITY is a term that refers to the capability of the land to provide adequate forage to maintain a specified number of grazing animals without damaging the long-term productivity of the range; this necessarily includes leaving a portion of edible forage uneaten as noted above.

To perform our AUM calculation for the subject property, we assumed that the 3 to 4 inches of always uneaten vegetation weighs approximately 800 pounds dry weight, and so this amount of forage is subtracted from the 3,600 pounds of total forage production per acre in the calculation of carrying capacity; thus 2,800 pounds of dry matter per acre will be available to be eaten in a normal rainfall year.

One animal unit (AU) is considered to be one cow (approximately 1000 pounds) with nursing calf. Smaller animals are less than an AU; for instance, 5 sheep or goats make up one AU, and 70 to 75 laying hens make up one AU. This AU will consume approximately 20 pounds of dry matter per day. Dividing the 20 pounds per day into the 2,800 pounds of dry matter available per acre to be eaten annually results in 140 days; hence one AU can graze one acre of the *Cabrillo-Heeser complex* soil unit for 140 days. Dividing 140 days by 30 days per month yields 4.67 months. We estimate this soil unit on the subject property to have 4.67 AUMs per acre.

As the subject property has 1.67 acres of land suitable for grazing, in practical terms 4.67 AUMs per acre means that the subject property can support:

[9] websoilsurvey.nrcs.usda.gov, Suitabilities and Limitations for Use, Vegetative Productivity, Normal Year

- one head of cattle for slightly more than half a year (about 7 months) or seven head of cattle for one month;

- 1 or 2 sheep or 1 or 2 goats year round;

- approximately 30–35 chickens year round.

It is therefore clear that owning and grazing cattle is not practical due to the size of the property. Mr Marr inquired of his neighboring cattle rancher Mike Biaggi if he would be interested in running cattle on the property for approximately one month per year. He replied that he was not interested; it would not be practical or economic for any other cattleman to bring in 6 or fewer head for such a short time.

Likewise, the land cannot support enough goats or sheep to create an enterprise, as 1 to 2 such animals do not create a flock or herd; this number limitation makes reproduction of the animals impractical. On the other hand, a small flock of chickens could produce enough eggs to make local sales practical, and can reproduce themselves.

3.3.7 Expected net dollar return for potential crops grown on each soil type on site

Although there are two soil units composing the subject property, only the *Cabrillo-Heeser complex, 0 to 5 percent slopes* portion has agricultural utility. When irrigated this soil is rated in USDA's Land Capability Classification System as class II and thus, if irrigated, is considered PRIME FARM LAND by the California Department of Conservation. Therefore the general economic analysis presented in section 2.5 is applicable to this soil unit.

3.3.8 Water resource for agriculture: sources, quantity, quality

The property owners have installed a 195-feet deep water well on the northwest portion of the subject property. This well remains unused at present but according to the well driller the well will produce an estimated 4 gallons per minute when fitted with an electric-power submersible pump. The water will be used for both domestic and agricultural purposes.

This production rate is insufficient to supply much more than domestic needs (80–100 gallons per day per person or 400 gallons per household per day[10] plus a small plot of irrigated land, which we calculate to be 0.05 acre (2,210 square feet) of irrigated vegetation, including trees, shrubs, and crops. This calculation is based on an maximum summer-time evapo-transpiration rate of 0.15 inches per acre per day[11] when there is no rainfall, and allowing a 50 percent recharge time for the groundwater as a sustainable practice — in other words, the pump would run 12 hours per day, not 24.

Livestock have lesser water requirements than crops when considering their drinking needs. Cattle require approximately 10 gallons of drinking water per day in the warm months. Sheep and goats are much lower at 1 gallon per animal per day. Chicken drinking water requirements vary with the amount of dry feed, such as grain, versus wet feed, such as pasture grass and insects; nevertheless the total amount per bird will rarely exceed 0.25 gallons per day[12] and thus, a flock of 30 birds would need no more than 7 or 8 gallons per day.

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[10] Reference: ⟨www.epa.gov/WaterSense/pubs/indoor.html⟩.

[11] Reference: ⟨wwwcimis.water.ca.gov/cimis/images/etomap.jpg⟩.

[12] References: *Farm Management Livestock Manual*, University of California Press, 1949; and *Poultry Drinking Water Primer B 1301*, University of Georgia.

3.3.9 Drainage and salt water intrusion

Rain water runoff follows the natural slope of the land, which falls in multiple directions off the higher elevations of the parcel toward the lower reaches of Little Salmon Creek south of the property. We are unaware of any history of salt water intrusion into the ground water at this site.

3.3.10 Access

The subject property is accessed via an approximately 800-feet long private road easement off Highway One. At present this easement is unimproved native soil.

3.4 On site land use

3.4.1 Existing land use

The subject property is currently vacant land not used for any agricultural purpose.

3.4.2 Historical land use

The subject property has been used in the past as range land for cattle when this parcel was owned by a family which owned numerous parcels of conjoining lands.

4 Analysis

4.1 Favorable factors for agriculture

The subject property enjoys a number of features which are favorable for its agricultural use.

1. Agricultural uses are legal under its Mendocino County zoning designation;

2. The adjoining property is used for cattle range, and there are no residences nearby that would object to the noise, smells and other peculiarities of agricultural operations;

3. Bee forage and bee water is widely available in the neighborhood in adjacent lands and nearby waterways;

4. The Cabrillo soil portion of the subject property is relatively highly rated, and produces substantial AUMs per acre compared to other rangeland in Mendocino County;

5. Water is available from a well on site to provide water for livestock and limited vegetable gardening;

6. The neighborhood community and tourist trade is enthusiastic about local food, small-farm production, and generally supportive of local agriculture.

4.2 Key factors impacting agricultural use of property

The subject property is limited in its agricultural uses by a number of important factors which have been discussed in the preceding sections of this report.

1. The cool marine climate, with average summer high temperatures reaching only into the mid 60s (degrees F), combined with summer morning fog limits the cropping choice to essentially cool season crops; a further limitation is imposed by perennial ocean winds that often can be quite strong.

2. The amount of water available from the water well is limited; the production of 4 gallons per minute (gpm), if used exclusively for irrigating vegetables or nursery stock in the summer would only support 1/10th of an acre, or about 4,000 square feet of area, based on an maximum summer-time evapo-transpiration rate of 0.15 inches per acre per day. Because of this lack of water for irrigation, it is not feasible for this property to be used as a plant nursery, as the size of the operation would necessarily be too small to support the costs and infrastructure needed. Vegetables are possible on a small scale as these will contribute directly to the farm household welfare and offset some income needs.

3. The property's size, especially considering it has under 2 acres of land that is either not shear cliffs or steeply sloping redwood forest, imposes limitations of scale and total productivity, whether measured in AUMs for grazing, or by amount of food crops or nursery products that could be grown. This is primarily an economic viability issue for agriculture on this site. Total productivity, as reviewed in section 2.1 does not translate into sufficient net income to create a stand-alone business.

The total amount of AUMs available on the subject property for cattle, sheep or goats has already been discussed as inadequate to support their year-round production. As previously noted, the neighboring cattle rancher, Mr Biaggi, has made clear that he is not interested in running cattle on the subject property. Moreover, cattle production is demonstrated to be uneconomic based on Mendocino County statistics, while goat production would generate $118 net annual income assuming it were possible to produce 2 goats per year on the property.

The highest return usage reviewed is nursery, which requires a very substantial $16,618 per acre (on average) up-front investment to generate an average of $8,242 per acre net income, and requires highly specialized knowledge and business skills while requiring years to establish and develop. However, the small amount of water available for irrigation limits the productive area to approximately 0.05 acre (see section 3.3.8), thus the calculated possible net income would be $412 per year. Similarly to the nursery business, vegetable income is limited not only by area available, but by lack of irrigation water. See section 3.3.8 for details.

Egg production, based on an average of 180 eggs per fowl per year, national average prices, and 30 birds per acre would net $918 per acre.

Overall, then, such net returns are not sufficient to justify a commute from off-site to the subject property for the sole purpose of operating an agricultural enterprise. For this reason the residence discussed in section 5.3 is necessary for agricultural use of the property, as it permits farmer-presence and a subsistence-oriented agriculture on-site with diverse crops and livestock as discussed in section 5.

4. A problem specific to nursery-use of the subject property is that a nursery business on the subject property would require numerous tall structures, such as greenhouses and shadehouses; however, the California Coastal Commission strongly desires to limit visibility of new structures on the land.

5. The subject property's access is not conducive to extensive vehicle traffic for conducting business. The gravel road that will lead from Highway One to the subject property is long and narrow.

6. The slope of what we have identified as land useable for agriculture is a limitation in the sense that tillage would exacerbate the erosion hazard from water run-off. The erosion hazard is increased by the sandy loam soil texture, which when exposed through tillage, is highly subject to the eroding action of both wind and water.

7. The subject property's location also imposes a number of limitations. It is distant from population centers which provide farm product marketing opportunities on a commercial, economic scale. The local population is small and does not present a substantial market for large commercial farms. The subject property location is distant from typical farm supplies and services such as fertilizer and pesticide dealers, farm equipment sales and service, building supplies, technical supplies and support for livestock enterprises including poultry and apiculture, and farm labor.

8. We anticipate a high, economically significant, amount of livestock predation on the subject property due to extensive forests and other wild lands in the neighborhood. This can be mitigated by good fencing, securing animals within predator-proof shelters every night, and human living presence on the property.

9. Finally, availability of credit for agricultural production is limited due to the property's size, location, and economic prospects.

4.3 Suitable agricultural uses of subject property

In consideration of the advantages as well as the limitations to the subject property discussed above, we find the following agricultural uses most suitable for the subject:

- pastured chickens kept for egg production;
- apiary for honey production;
- climatically adapted vegetable production.

The latter, climatically adapted vegetable production, means cool season crops that can be grown outdoors in raised beds without greenhouses or protective covering.

5 Proposed agricultural management plan

5.1 Owners' objectives

It is a goal of Michael Marr and Judith Malin to live on-site and operate a small subsistence-oriented organic farm. They understand that the subject property is not large enough to "make a living" by farming alone and therefore supplemental income will come from Mr Marr's on-site woodworking projects and woodworking services to the local community. (Mr Marr is a professional woodworker.)

Detailed below are their specific agricultural objectives that will produce seasonably available farm commodities, such as eggs, honey, and vegetables.

5.2 Agricultural land use

5.2.1 Utilization for agriculture

Over 90 percent of the subject property's land that is physically suited for agriculture will be used directly in crop or livestock production. The remaining 10 percent is utilized for buildings which support that agriculture.

5.2.2 Crops and livestock

The farm will operate three enterprises: pastured chickens for egg production, an apiary for honey production, and seasonal vegetable production.

5.2.2.1 Egg production

The farm will keep a small flock of chickens that will be pastured on the acre site around the residence and barn. Fencing is needed to keep the poultry within the designated area of the pasture. This can include the septic leach field. A hen house within the fenced pasture will be needed to lock the birds up at night when most predators are out. Mobile hen houses have been demonstrated to reduce predation as predators typically are cautious and hesitant to break into houses that are frequently moved. A flock of 30 laying hens can be expected to produce 300 to 400 dozen eggs per year with higher production between March and October, and negligible production December through January.

Some supplemental feeding is required for laying hens. A mature laying hen consumes approximately 100 to 120 pounds of grain and mash annually, plus 20 pounds of greens when raised indoors. We estimate the native pasture, grazed at or less than its carrying capacity, can provide roughly half of the nutritional needs of the birds, calories and nutrients both. Therefore, for egg production at the level described in section 2.5, approximately 50 pounds of grain per year per mature bird will be required. Currently organic chicken scratch grain costs approximately $0.50 to $0.60 per pound when purchased in bulk. The pasture will provide all the greens needed by the birds, though they will also benefit from vegetable scraps from the garden beds.

For best results we recommend purchasing 4 to 6 month old pullets ready for laying rather than trying to initially brood chicks. The choice of breed is important, as well. For pasturing, we recommend good foragers such as Araucana, Australorp, and Rhode Island Red. A mix of breeds

will lead to more even egg laying over the course of the seasons, as the different breeds have slightly different laying habits and production rates. The former two breeds are also good brooders, which will be important to maintain the flock in the ensuing years.

5.2.2.2 Honey production

An apiary of 4 to 5 hives has the potential to make 250 to 300 pounds of honey annually, based on national averages. The hives should be sited within the fenced chicken pasture to provide protection from marauding animals. The chickens will eat dead bees as they are cast out of the hive by the living colony. Mike Marr can build and repair hives as an adjunct to his woodcraft business.

5.2.2.3 Vegetable production

Approximately 600 square feet of raised beds will be constructed in which to grow seasonal vegetables adapted to the climate. These include beets, broccoli, cabbage, lettuce, kale, potatoes, swiss chard and turnips. The raised beds will be constructed with an impervious perimeter such that the ground surface is not tilled and there is no runoff or other erosion hazards created. The beds will rise approximately 12 inches above the ground surface. They can be filled with a combination of native soil and organic compost made primarily from on-site vegetation.

The vegetables will require approximately 7,000 gallons of irrigation water per year, applied mainly from June through October. Several crops per year can be grown in the same space. Many of the leafy greens and root crops mature in 3 months or less time from sowing, therefore several crops can be grown in succession annually. For disease control, the species should be rotated, that is, avoid growing the same crop continuously in the same location.

5.2.3 Site plan and layout

Figure 5.1 illustrates the site plan for the property, with location of the water well, buildings, bee-yard, and vegetable beds.

5.2.4 Organic production practices

Marr and Malin will farm in accordance with the USDA's National Organic Program (NOP). Although organic practices are site-specific and take time to develop for each individual farm, the basic principles are relatively straightforward: improve the fertility and structure of the soil to foster plant health; use only approved production inputs as fertilizers and pest control[13]; as much as possible design production practices to work in concert with the resident, natural biological system of the place.

Third-party organic certification will not be required for the Malin/Marr farm as the gross income of the farm is projected to be less than $5,000 annually. Federal law permits the labeling of agricultural products as organic from farms grossing less than $5,000 annually provided all organic production regulations as specified in the NOP are followed.[14]

[13] The Organic Material Research Institute maintains a freely available list of production input materials that comply with the National Organic Program at ⟨www.omri.org⟩.

[14] Code of Federal Regulations, Title 7–Agriculture, Subtitle B–Regulations of the Department of Agriculture, Chapter 1–Agricultural Marketing Service (Standards, Inspections, Marketing Practices) Deparment of Agriculture, Subchapter M–Organic Food Producution Act Provisiions, Part 205–National Organic Program, Subpart 101–Applicability

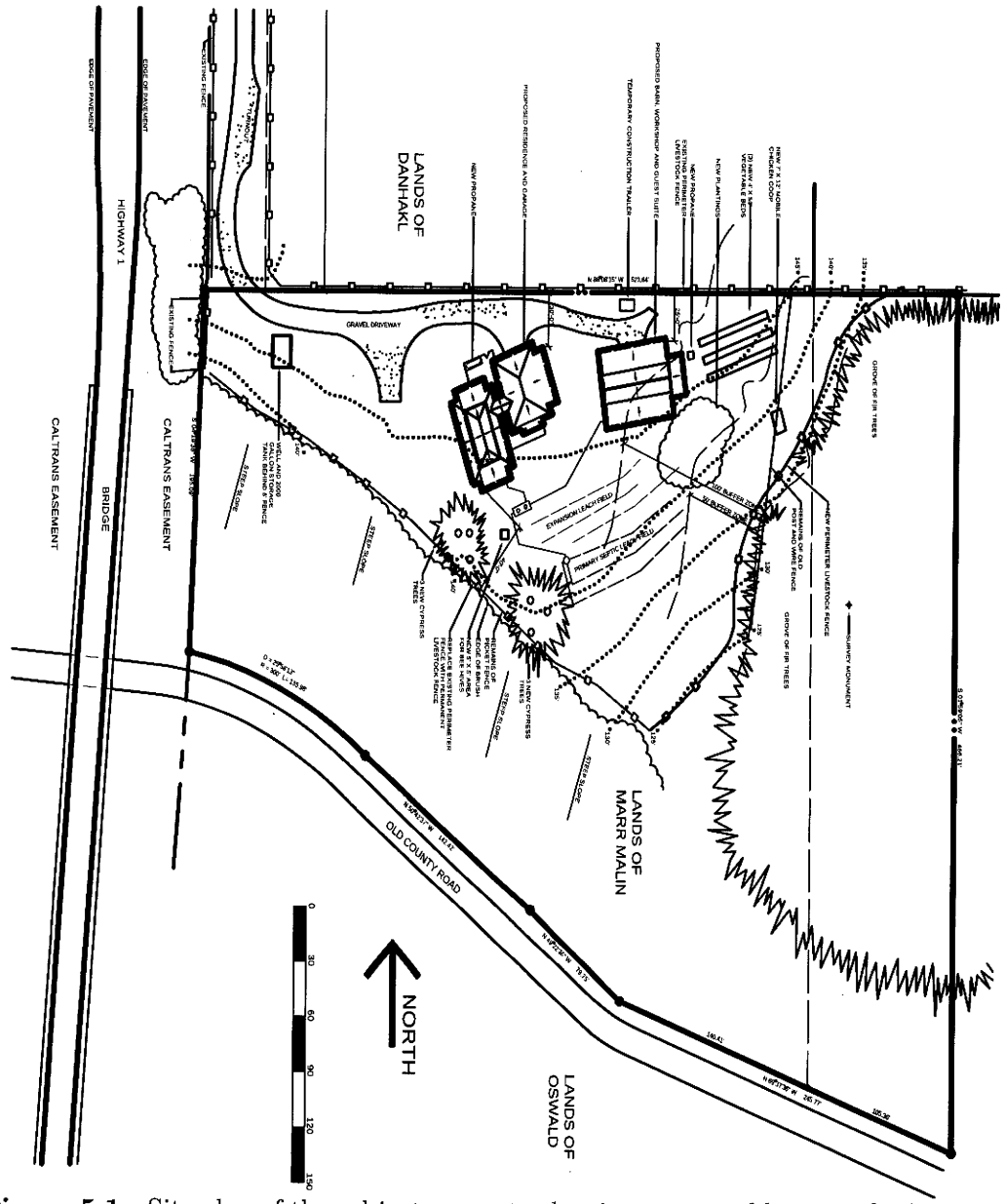

Figure 5.1 Site plan of the subject property showing suggested location for bee-yard, vegetable beds, and mobile chicken coop. Forested ravine discussed in the text is on the east outlined by a zigzag; the shear cliff face is on the south noted as "steep slope". Agriculturally useable area is roughly triangular in shape and shows slope contour lines. (A full page copy of this site plan by Bob Hartstock is reproduced in the appendices).

5.2.5 Soil fertility and management

As noted in section 3.3.5 the subject property's soil is deficient in several plant nutrients. Soil fertility can be improved through the addition of manure and compost following typical organic farming methods. Cover cropping with legumes such as vetch or fava beans is also a good method to increase nitrogen levels in the soil in the raised vegetable beds.

5.2.6 Conservation practices

The farm plan incorporates a number of well established conservation techniques.

First, there will be no tillage of the native soil for vegetable production. Instead, the vegetables will be grown in raised beds with impervious perimeters that prevent erosion.

Second, the chicken pasturing will be kept at carrying capacity by limiting flock size to under 35 birds. This will maintain a vegetative cover at all times on the pasture, minimizing erosion hazard, and promoting the diversification of the resident species. Many native grasses and forbs, such as blue wildrye (*Elymus glaucus*), and Indian lettuce (*Claytonia perfoliata*) are already present on the subject property and make excellent forage. These and other native species can be encouraged to propagate by managing the poultry's access, timely exclusion, and further by seed collection and re-distribution.

Third, the forest on the east side of the property will be maintained as grand fir forest habitat, functioning as protected watershed draining into Little Salmon Creek. Likewise the south facing cliff, with its marine/shoreline habitat and wealth of native vegetation will be maintained as is; this too functions as watershed for Little Salmon Creek down slope.

Finally, all production practices will be in accordance with the National Organic Program, which incorporates many resource conservation practices and requires consideration of wildlife habitat management.

5.3 Buildings

5.3.1 Description

Two building structures are planned for the farm, a residence and a barn/workshop/guestroom. The residence, including an exterior deck, will occupy 2,719 square feet in area. The barn will occupy 2,040 square feet of area. The barn will be used to store farm and gardening equipment, for farm processing such as egg packaging and honey extraction, vehicle storage, mowing equipment, as a wood-working shop, and also has a guest room, which can be used to house occasional farm interns. Figure 5.1 illustrates the siting of the buildings.

5.4 Marketing

The surplus eggs, honey, and vegetables produced on the subject property will be marketed by the producers, Malin and Marr. No agents or brokers are contemplated. The marketing effort will concentrate on the local area, from Elk to Mendocino. No special arrangements or transportation needs are required. Likely markets are discussed in section 2.5.5.

5.5 Impacts of proposed agricultural management plan

The agricultural plan presented in this report is designed to minimally impact the environment and maintain the property in productive agricultural use. Adherence to organic production practices described in the National Organic Program help insure sensitivity to adjacent wildlife habitat. As there are no nearby residences, human disturbance is minimal.

5.5.1 Whether lands not suitable for agriculture are being developed before converting agricultural lands

The land not suitable for agriculture on the subject property is steeply sloping land, with grand fir forest on its east side, and mass-wasting cliff face on the south side. Both the forest land and the cliff face are unsuitable for building due to slope, erosion hazard, and watershed flow disruption. The only land that is suitable for building is also the only land suitable for agriculture.

5.5.2 Impact of proposed development on agricultural production on site and on adjoining agricultural land

There are no intensive agricultural uses on nearby lands that could be affected by the proposed building of a residence and barn on the subject property. The neighboring property is used for cattle range, and its productivity for this use will not be diminished by the proposed farm plan and development for the subject property, as this plan emphasizes the use of the property for livestock production, specifically, the pasturing of chickens, bee forage, and beekeeping.

On the other hand, the proposed development has a major impact on the use of the subject property for agriculture: it will make agriculture possible on the site; due to limitations discussed above (see section 4.2) agriculture is not economically feasible unless it is a subsistence-type agriculture supported by the farmer living on-site. Moreover, in this farm plan the loss of approximately 4,700 square feet of area to building footprints is balanced by the purchasing of organic chicken feed to supplement the flock's diet. If 30 birds are kept, the amount of feed needed is estimated at 50 pounds per bird per year times 30 birds or 1,500 pounds of grain. This is equivalent to the average annual production of approximately 0.28 acre (or 12,197 square feet) of wheat in California.[15]

The woodshop in the proposed barn will be used to support the farm operation in the construction and repair of hen housing and bee hives[16]. The woodshop also will be used for Mike Marr's carpentry and woodworking business. As such the woodshop will contribute to the household income and thereby support the continuance of agriculture on the property. It is not unusual in America today that farming income needs to be supplemented with off-farm income. Recent USDA statistics record that 90 percent of all farm household income comes from off-farm sources[17], and 47 percent of all farms in California are small farms producing less than $9,999 gross revenue (and another 22 percent of farms gross between $10,000 and $49,999).[18]

5.5.3 Whether agricultural viability is limited by conflicts with urban uses

The nearest urban area is the town of Mendocino, which is 7 miles to the north of the subject property. The community of Elk is 7 miles to the south. There is no conflict causing agricultural viability issues between the subject and these areas.

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[15] *California Field Crop Review*, United States Department of Agriculture, National Agricultural Statistics Service, March 15, 2012.

[16] The woodshop can also be used s a place to package eggs and to extract and bottle honey produced on the farm

[17] USDA publication AIS-88, December 2009

[18] Reference: ⟨www.ers.usda.gov/StateFacts/CA.htm⟩.

5.6 Economics

Below are enumerated costs and income estimates for the enterprises and operations discussed above.

5.6.1 Capital expenditures

5.6.1.1 Land and building improvements

The cost of land and building improvements is estimated as

- hen house: estimated cost $750 for materials, construction labor provided by Mike Marr at no charge;

- raised beds: estimated cost $1,200 for materials, construction labor provided by Mike Marr at no charge;

- pasture fencing, no-climb type tight mesh, 60 inches tall, metal T post every 10 feet, with end anchor posts: $2.25 per linear foot times 1,000 linear feet, $2,225 total; use of family farm labor to install.[19]

5.6.1.2 Equipment

The cost of equipment is estimated as

- bee hives: materials, $175 for hive body, frames, base, etc.; packaged live bees, $50 per establishment colony, total $200 per hive times 4 hives;

- beekeeping equipment: coveralls/bee suit, veil, gloves, smoker, hive tool, bee brush, $250;

- honey-processing equipment: $500.

The total estimated startup cost for the apiary is $1,550.

Garden tools for vegetable production are already owned.

5.6.1.3 Flock expenses

Flock expenses are estimated as $5 per bird for the cost of pullets. This gives a total for 30 birds of $150.

5.6.1.4 Depreciation and interest

No borrowing is anticipated for the agricultural enterprises, therefore there will be no interest paid. The capital items and the start-up costs total $5,875; using a 10-year straight-line depreciation method the annual depreciation charge is $588. N.B.: actual depreciation charges for accounting purposes will likely vary.

[19] Alternativcly, portable electric fencing can be used. The cost of portable electric fencing varies and can be as much as permanent fencing as described.

5.6.2 Operating expenses

5.6.2.1 Fixed costs

Fixed costs are assumed to be constant regardless of annual yield, and are based solely on current costs and do not including land costs. There are two fixed costs: insurance, and taxes. Insurance can be added to homeowner's insurance at an estimated $100 per year. County taxes for agricultural structures and personal property are estimated at an extra $50 per year.

5.6.2.2 Variable costs

Labor: Only unpaid family labor will be used; hence this cost is not estimated.

Supplies and materials: The following supplies and materials will be needed for the farm.

- annual feed cost (organic scratch grain): 1,500 pounds at $0.50 per pound, $750 per year;
- jars for honey: $1.00 per 16-ounce (1-pound) jar times 250 jars, $250 per year;
- egg cartons, $0.25 each, with recycling, buy 300 per year. Total annual cost $75.

Energy and fuel: Electricity will be used for pumping water; with the low water usage for the farm enterprises, this cost will be included in household expenses.

Due to the modest amount of produce from the farm and the overall small income to be generated, we anticipate no special trips will be made to market farm produce but instead the trips to the Albion and Mendocino stores for supplies can also be used to deliver eggs, honey and vegetables from the farm. Therefore, there is no separate charge for farm fuel.

Repairs: The premises and equipment will be maintained using family labor and on-hand tools and supplies.

Outside consultants: Potential veterinarian fees are estimated at $100 per year.

Harvest cost based on unit of yield: Harvest will be performed by family labor.

5.6.2.3 Total variable expenses

The variable expenses listed above total $1,175.

5.6.3 Gross income

5.6.3.1 Eggs

We anticipate locally produced organic eggs from pastured chickens will fetch a much higher price than the national average presented in section 2.5. While the national average is $1.13 per dozen gross income, fresh local organic eggs from pastured chickens in California generally retail for $5.00

Line item		Amount
gross income		\$2,725
fixed expenses		⟨\$150⟩
variable expenses		⟨\$1,175⟩
net income	=	\$1,400
depreciation		⟨\$588⟩
net income after depreciation	=	\$812

Table 5.1 Calculation of net farm income.

to \$6.00 per dozen when sold individually as at farmers' markets, or for approximately \$2.50 to \$3.00 per dozen when sold in quantity to such customers as the local inns and grocery stores.

The yield is estimated to be 180 eggs per bird per year. If 30 birds are kept, the total annual yield would be 450 dozen; at \$3.00 per dozen, the gross sales of eggs would produce \$1,350 per year.

5.6.3.2 Honey

We estimate that the honey can be sold locally, one-half at the retail price of \$6.00 per pound, and one half at a wholesale price of \$3.00 per pound; therefore the average price would be \$4.50 per pound. For the estimated 250 pounds of production, this amounts to \$1,125. There will be some value to the wax cut off the comb, but we have not included its value in this study.

5.6.3.3 Vegetables

While the vegetables will be primarily consumed by Marr and Malin or fed to the chickens, there may be occasional excess production. We estimate this not to exceed \$250 in annual gross revenue.

5.6.3.4 Total gross income

The total gross income is the sum of the egg, honey and vegetable sales discussed above, which amount to \$2,725 annually.

5.6.4 Net income

The net farm income is the total gross income less fixed and variable expenses. The depreciation is then deducted from this to reflect the capital and start-up costs. The calculation is shown in table 5.1.

We estimate an annual net income of \$812 after cash costs and depreciation utilizing the management plan presented in this report. This can be converted to a per-acre basis by dividing \$812 by the subject property's 1.26 acres of usable agricultural land, equalling \$644 per acre.

5.7 Conclusion of farm plan

This \$644 per acre, our estimate of the annual net income from this farm plan, compares very favorably with the California average farmland return-to-operator statistic we derived from the

USDA-ERS data sets in section 2.5.4. That figure was $343 per acre, and thus the subject farm plan, at $644 per acre, is nearly double the California average. It greatly exceeds the $108 per acre gross annual income estimate for Mendocino County calculated in section 2.5.4.

This substantially higher than average net income is possible, despite the subject property's major limitations, for several reasons. The enterprises selected, vegetables, eggs and honey, are well suited to and make good use of the property's physical agricultural resources and Malin and Marr's personal skills and resources. These enterprises were also selected for their profitability in a small-holder's farm context. There is good prospect for local marketing of the eggs and honey, and this offers the potential of minimal marketing costs with higher prices than what would be obtained from wholesale marketing outside the neighborhood. The farm operation will rely on unpaid family labor, and is made economically possible because the operators will live on-site and have an opportunity to supplement their household income from woodworking projects that can be made on the farm property.

The farm plan has been designed to create a holistic sustainable farming system, with integrated crop and livestock enterprises, and numerous conservation practices that will maintain and enhance the farm land over time. Through this plan Malin and Marr will be able to bring agriculture back to this small property that otherwise would no longer be viable for agriculture, fulfilling Mendocino County and California Coastal Commission requirements that the proposed use maintains productivity of on-site and adjacent agricultural lands and be compatible with long term protection of resource lands.

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7 Appendix: General assumptions and conditions of this report

This study is subject to the following general assumptions and conditions.

7.1 Limiting conditions

This study has been prepared at the request of the client to whom this report is addressed. No third party has a right to use or rely on this report for any purpose, unless so authorized by client. Possession of this report does not grant right of publication.

Opinions and estimates expressed in this report represent the consultants' best professional judgment but should not be construed as recommendation to act. The findings, assumptions, and conclusions contained in this report are the consultants' personal opinions and are not assurances that any event will or will not occur.

The consultants have no requirement, by reason of this report, to give testimony or appear in court or any hearing or appearance required by subpoena with reference to the subject of this report, unless additional arrangements are agreed upon by consultants and client.

The consultants accept no responsibility for legal matters, especially those affecting title to the property.

7.2 Assumptions concerning accuracy and reliability of data

This feasibility study is based on knowledge available to the consultants at the time of publication. If additional information becomes available at a later date, the opinions reflected in this report could be affected.

Certain estimates, data, and information furnished by others (including the client and all other persons identified in section 1.7.1) in the course of this investigation are assumed to be correct and accurate. The data relied upon in this report are believed to be from reliable sources.

No survey of the subject property has been made by the consultants. All figures, photographs, maps, and exhibits in this report are presented as aids to understanding the analysis and are not guaranteed as to their scale or accuracy. Maps in this report, which are not original research, are derived from public GIS data and published maps from the United States Geological Survey, the United States Census Bureau, the United States Department of Agriculture, the State of California, and local governments, which are offered to the public by these agencies with the disclaimer that they are believed accurate but are not guaranteed.

Concerning numerical quantities, all calculations have been made with the most accurate figures available to the consultants. Intermediate calculations have been made with the maximum feasible number of digits to prevent the accumulation of round-off error, but are generally presented in rounded form, showing only an appropriate number of significant figures. This both to help readability and to avoid implying to the reader that there is greater accuracy in the data than, in fact, exists.

Concerning property areas, the county assessor's plat maps are the source of acreage figures unless another source is specified. Assessor's measurements are typically given in tenths or hundredths of an acre, although this large number of written significant figures does not necessarily

reflect true accuracy. Assessor's plat maps have been used to approximately locate the boundaries of properties. All assessor's plat maps, and hence acreage figures read from them, are accompanied by the disclaimer that the measurements are for assessment purposes only, and are not an accurate survey.

7.3 Assumptions concerning property condition

Regarding the subject property, it is assumed that there is full compliance with all applicable federal, state, and local environmental regulations and laws, including zoning and land use, unless otherwise stated. A comprehensive examination of laws and regulations affecting the subject property has not been performed for this appraisal. The consultants are not qualified to give legal opinions concerning the subject property.

It is assumed there are no hidden or unapparent conditions of the property, subsoil, or structures that would render it more or less valuable. No responsibility is assumed for such conditions. The observed condition of all improvements existing at the time of the property inspection is based on a casual inspection only. Wells, pumps, and fences are assumed to be in good working condition except as otherwise indicated in the narrative.

Particle type	Particle diameter (mm)
clay	<0.002
silt	0.002–0.05
very fine sand	0.05–0.10
fine sand	0.10–0.25
medium sand	0.25–0.50
coarse sand	0.50–1.00
very coarse sand	1.00–2.00

Table 8.1 The system for naming soil particles by size used by USDA soil scientists.

8 Appendix: Soil properties analyzed

The fertility of a soil is a consequence of numerous interrelated properties, both mechanical and chemical. This supplementary section gives a brief description of these properties and their significance to help you understand the results presented in this report.

8.1 Soil texture and soil structure

Soils are composed primarily of mineral and rock particles, which are called SAND, SILT, or CLAY depending on their size, from smallest to largest (see table 8.1). The ratios among the three sizes of particles determine the overall SOIL TEXTURE. The term LOAM indicates a mixture of roughly equal amounts of sand, silt, and clay — a highly desirable soil texture. Since the amounts of the components are never exactly equal, we generally speak of CLAY LOAM, SILTY CLAY LOAM, SANDY LOAM, and so on, indicating that the one or two of the size components are more prominent than the others, while the soil still falls within the definition of a loam.

The manner in which the constituent particles of soil are assembled in aggregate form is SOIL STRUCTURE. Good soil structure includes abundant small voids between the solid soil particles, known as PORE SPACES, which allow oxygen and water to enter and exit the soil and offer space for plant roots to grow. Poor soil structure reduces plant growth by restricting root development, restricting percolation, promoting waterlogging, and creating conditions for root disease.[20] Therefore, maintaining and enhancing good soil structure (which essentially means maintaining good POROSITY — size and abundance of pore spaces) is a key goal of soil management for agriculture. Although we have described soil structure as a mechanical property of soil, its quality, good or poor, is strongly affected by the chemical properties of the soil, described next.

8.2 Ions and the soil solution

As water percolates through the voids between solid soil particles, wetting their surfaces, substances dissolve in the water, forming a chemical solution, known as the SOIL SOLUTION. Other than water, the components of the soil solution most relevant to the agricultural use of a soil are ions. In chemistry, an ION is an atom or molecule that has a net electrical charge due to the presence of a different number of electrons and protons in the atom or molecule. If electrons outnumber protons,

[20] Hausenbuiller, R. L. *Soil science principles and practices.* W. C. Brown Co. (Dubuque, Iowa), 1974.

the structure has a net negative charge and is known as an ANION. If protons outnumber electrons, the structure has a net positive charge and is known as a CATION.

The chemical properties of soil arise from the ion composition of the soil solution. Laboratory testing of soil uses a one-to-one mixture of soil and water. The solution formed is representative of the solution that would form naturally in the field when irrigating crops or when the soil is saturated by rainfall.

8.3 Acidity and basicity (pH)

The soil samples have been analyzed for pH of the soil solution.

The pH scale, which typically ranges from 0 to 14, is a measurement of acidity or basicity. In chemistry, ACIDITY and BASICITY of an aqueous solution (that is, some mixture of water and dissolved substances) are a highly important physical property. In this case, the soil solution is the solution being considered. A pH value represents the concentration of hydronium cations (H_3O^+) and hydroxide anions (OH^-) in the soil solution or other chemical solution. A pH below 7.0 is considered ACIDIC meaning that hydrogen cations are present in greater concentration than hydroxide anions. A pH above 7.0 is considered BASIC or ALKALINE, meaning that hydroxide anions are present in greater concentration than hydronium cations. At a pH of 7.0, hydronium and hydroxide are equally numerous. Pure water, which is neither an acidic nor a basic solution, has a pH of 7.0, because it contains both hydronium and hydroxide ions in equal, though minute, amounts. We call chemicals that cause the formation of excess hydronium when dissolved in water ACIDS and chemicals that cause the formation of excess hydroxide when dissolved in water BASES.[21]

Hydronium and hydroxide are antagonists and hence their concentrations are always related by a single mathematical formula. The difference between the two ions is a hydrogen cation. Removal of a hydrogen cation (H^+) from a molecule of water (H_2O) gives hydroxide (OH^-), while addition of a hydrogen ion to a molecule of water gives hydronium (H_3O^+). For this reason, we consider hydronium and hydroxide concentrations (acidity and basicity) as two aspects of the same phenomenon, not as separate, unrelated chemical properties.

As crops and other plants absorb nutrients in dissolved form from the soil solution, acidity is highly important for crops as well. The pH of any soil is a consequence of the various chemicals in the soil (principally salts, discussed next), which react with water as they dissolve and cause the movement of hydrogen ions, resulting in the formation of either excess hydronium or excess hydroxide. The net effect is reflected in pH of the soil solution. Soil pH is one of the most fundamental and important chemical properties of soil, as it underlies the chemical and biological functioning of the soil. Essential plant nutrients are maximally available at or close to pH 7.0. Hence, a soil pH between 6.6 and 7.3 is best for essentially all crops. Slightly alkaline soils, having a pH of 7.4 to 7.8, are generally not detrimental to crops, except very alkali-sensitive crops, if properly managed to avoid nutrient deficiencies. However, few crops can produce optimal yields growing in soil of pH approximately 7.9 or higher, which is considered moderately alkaline. Alkaline soils are typically found in arid regions, where basic salts have accumulated over geologic time. Slightly, moderately, and strongly alkaline soils are common throughout California. Acid soils, having a pH of less than 6.5, are less common in California than other parts of the USA. Increasing soil acidity (the pH decreases) is associated with reduced availability of phosphorus, calcium and magnesium deficiencies, manganese toxicity, restricted root growth or regeneration due to aluminum toxicity, reduced efficiency of N and K use, poor response to N and K fertilizers, and reduced populations

[21] To be precise, such acids or bases are Arrhenius acids or Arrhenius bases in chemistry. Other, more general definitions of acids and bases used by chemists are of no relevance to the soil chemistry discussed in this report.

Term	Indicated pH range
ultra acid	<3.5
extremely acid	3.5–4.4
very strongly acid	4.5–5.0
strongly acid	5.1–5.5
moderately acid	5.6–6.0
slightly acid	6.1–6.5
neutral	6.6–7.3
slightly alkaline	7.4–7.8
moderately alkaline	7.9–8.4
strongly alkaline	8.5–9.0
very strongly alkaline	>9.0

Table 8.2 The system for describing soil acidity or basicity used by USDA soil scientists.

of soil bacteria. Applying agricultural lime, calcium carbonate, to the soil in specific quantities is an age-old method to amend and neutralize highly acid soils.

8.4 Salts, salinity, and electrical conductivity

The soil samples have been analyzed for electrical conductivity of the soil solution (a measurement of salinity, that is, quantity of salts present).

In chemistry, a SALT is an ionic compound consisting of an anion (negatively charged ion) and a cation (positively charged ion) other than hydronium or hydroxide. In aggregate, the salt is electrically neutral as the negative charge of the anion is balanced by the positive charge of the cation. Ions always occur in soil in such an balanced form, as soil has no net electrical charge. There are many types of salts that dissolve readily in water, and hence are important components of the soil solution.[22] Other salts are somewhat soluble, contributing to the composition of the soil solution by dissolving partially. All plant nutrients are salt-forming ions of some sort (see table 8.3). The pH of the soil solution is largely determined by the proportions and quantities of the various salts present—salts can be acidic (causing soil pH to decrease), neutral (not affecting soil pH), or basic (causing soil pH to increase).

The property SALINITY indicates the quantity of salts dissolved in the soil solution. Total salinity is determined indirectly by measuring the ELECTRICAL CONDUCTIVITY of the soil solution. Pure water does not conduct electricity, while water containing ions of dissolved salts does because of the electrical charge of the ions. Therefore, the electrical conductivity of the soil solution is a measurement of the quantity of dissolved salts and can be used to estimate the effect of those salts on plant growth. It is measured in decisiemens per meter ($dS \cdot m^{-1}$). Alternatively, the measurement can be expressed as millimhos per centimeter (abbreviated $mmho \cdot cm^{-1}$); these two units are exactly equivalent.

As plant nutrients are ions that necessarily contribute to salinity, some degree of electrical conductivity in a soil is desirable. However, excessive salinity is toxic to plants. The critical

[22] Common table salt is just one of the many possible salts, in the chemical sense of the word, consisting of sodium (the cation) and chloride (the anion).

Element	Importance	Ionic form in soil
nitrogen	primary macronutrient	NH_4^+, NO_3^-, NO_2^-
phosphorus	primary macronutrient	HPO_4^{2-}, $H_2PO_4^-$
potassium	primary macronutrient	K^+
sulfur	secondary macronutrient	SO_4^{2-}
calcium	secondary macronutrient	Ca^{2+}
magnesium	secondary macronutrient	Mg^{2+}
zinc	micronutrient	Zn^{2+}
manganese	micronutrient	Mn^{2+}
copper	micronutrient	Cu^{2+}
iron	micronutrient	Fe^{2+}, Fe^{3+}
boron	micronutrient	$H_2BO_3^-$

Table 8.3 Plant nutrients found in soil, which occur as salt-forming ions.

Class	Electrical conductivity ($dS \cdot m^{-1}$)
non-saline	0–2
very slightly saline	2–4
slightly saline	4–8
moderately saline	8–16
strongly saline	>16

Table 8.4 Descriptive classes of soil salinity used by USDA soil scientists.

threshold is 2 $dS \cdot m^{-1}$, above which problems due to salinity will occur for sensitive crops. Many common crops are salt-sensitive. Increasing problems for plant growth are expected as the levels rise above 2.0. At this level the total amount of salts in the soil will be toxic to sensitive plants and will restrict the growth of moderately tolerant plants. Most crops are adversely affected when salinity exceeds 3 $dS \cdot m^{-1}$. Only highly salt-tolerant plants can grow optimally well under these conditions.

8.5 Cation-exchange capacity and exchangeable-cation percentages

The soil samples have been analyzed for cation-exchange capacity and exchangeable-cation percentages.

Besides existing as part of a salt, cations are also found within the soil adsorbed onto clay particles and organic matter (discussed in section 8.9 on page 53), which have negatively charged surfaces that counterbalance the positive charge of the cations. The negatively charged surface sites on these soil particles are known as CATION-EXCHANGE SITES, because these sites typically hold cations until they are replaced by another cation of equivalent charge. This holding capability means that cation-exchange sites are a reserve of plant nutrients, which are released slowly into the soil solution as plant growth removes cations from the soil solution. The quantity of cation-exchange sites found in a portion of soil is known as the CATION-EXCHANGE CAPACITY, measured

in milliequivalents per 100 grams, abbreviated meq · (100 g)$^{-1}$. The higher the cation-exchange capacity of a soil is, the greater is its nutrient-holding capacity.

The specific identity of the cations occupying the cation-exchange sites strongly affects soil structure. Hence, the soil samples have been analyzed for their EXCHANGEABLE-CATION PERCENTAGES, meaning the percentage of all cation-exchange sites occupied by each type of cation. The three cations that mostly strongly affect soil structure are calcium (Ca^{2+}), magnesium (Mg^{2+}), and sodium (Na^{+}). When soil structure is good, soil particles bind to each other and to soil organic molecules electro-chemically to form a matrix with many small voids (pore spaces) for circulation of water and air. Calcium and magnesium cations are an essential structural component of the soil matrix, making such aggregation possible. A two-to-one ratio of calcium cations to magnesium cations occupying cation-exchange sites leads to aggregation with an optimal structure. When the ratio of calcium to magnesium cations is less than two-to-one (in other words, when excess magnesium is present), the manner of aggregation is less than optimal.

The exchangeable cation percentage of sodium is perhaps of even greater importance, because the presence of sodium in the soil is purely negative — as the percentage of sodium increases in the soil, the poorer the soil structure and water-holding capacity. High-sodium, or SODIC, soils tend to stay wet longer than low-sodium soils, and thus are sometimes observed to puddle. In sodic soils plant growth is retarded or ceases. Sodium has the electro-chemical property that it can readily displace calcium and magnesium in the soil matrix. By adsorbing to the soil particles, sodium disintegrates soil aggregates and collapses the pore spaces. The resulting soil mass is amorphous and low in permeability due to its lack of porosity. Most crops fare poorly in soils containing more than five percent exchangeable sodium. As sodium rises above this level, problems with soil structure and water availability problems increase. Soil amendments such as gypsum (calcium sulfate) can be used to modify sodic soils, alleviating the poor structure, the puddling, and the lack of oxygen and nutrients.

8.6 Plant nutrients

The soil samples have been analyzed for plant-nutrient content.

The elements nitrogen, phosphorus, and potassium (N, P, and K) are said to be the PRIMARY PLANT MACRONUTRIENTS because they are required in high amounts compared to all other plant nutrients. These are the typically the main yield-limiting nutrients in agriculture and hence are the focus of any fertilization program.

Nitrogen, the most important yield-limiting nutrient, is absorbed by plants in the form of ammonium (NH_4^{+}) cations or nitrate (NO_3^{-}) anions; these forms are known as ORGANIC NITROGEN.[23] Elemental (inorganic) nitrogen is ubiquitous in nature, composing approximately 78 percent of air as the gas N_2, but most crop plants cannot use it in that form.[24] Test results for nitrogen have not been given, as ionic nitrogen is highly mobile in the soil and a test now would not predict nitrogen needs in the future.

Fertilizers are labeled with an N-P-K RATING, a combination of three numbers describing its content of usable nitrogen, phosphoric anhydride (P_2O_5 or P_4O_{10}) or equivalent, and potassium oxide (potash, K_2O) or equivalent. You can think of the numbers as the percent of the weight of the fertilizer consisting of each of the three plant nutrients. As the phosphorus and potassium

[23] An additional form of organic nitrogen is the nitrite anion, NO_2^{-}. This ion is not absorbed by plants, and is in fact toxic, but can be converted to nitrate by soil-resident bacteria.

[24] Legumes, such as alfalfa, peas, beans, and vetch, are an exception. These plants are capable of using atmospheric nitrogen gas under proper conditions by associating with bacteria that perform the required conversion into ionic nitrogen.

content are expressed as oxides not as the elements themselves for historical reasons, it is necessary to multiply the phosphorus rating by .436 and the potassium rating by .84 to obtain the actual content of these nutrients.[25] For example, applying one hundred pounds of ammonium phosphate, rated 11-48-0, to one acre of land would supply 11 pounds per acre of nitrogen, 20.9 pounds ($48 \times .436$) per acre of phosphorus, and no potassium.

In addition to their importance in forming soil structure, calcium (Ca^{2+}) and magnesium (Mg^{2+}) are also nutrients used in substantial amounts by plants, though in lesser amounts than the primary macronutrients. Magnesium is a component of chlorophyll. Another nutrient required in substantial amounts is sulfur, whose plant-available form is sulfate ($SO_4{}^{2-}$). Calcium, magnesium, and sulfur are the three SECONDARY MACRONUTRIENTS. Of these three, sulfur is needed in somewhat greater quantities than the others.

Manganese (Mn^{2+}), zinc (Zn^{2+}), copper (Cu^{2+}), iron (Fe^{2+} or Fe^{3+}), and boron ($H_2BO_3{}^-$) are PLANT MICRONUTRIENTS. While essential for crops to grow, these are needed in small amounts only and can be toxic when present in excess. The potential problems from excessive boron are discussed in the next section.

8.7 Boron

The soil samples have been analyzed for boron content.

Boron, the fifth element of the periodic table of elements, is a micronutrient needed in trace amounts by plants, at approximately one part per million (ppm) in soil. A boron level above 1.0 ppm indicates a need for management to avoid boron accumulation, although is it not an immediate cause for concern below 3.0 ppm, unless irrigation water is also high in boron. At concentrations beginning around 3 ppm, boron damages sensitive plant species. Most crop plants are boron-sensitive; see table 8.5 for the boron tolerance of selected crops.[26] As its concentration increases above 4 ppm, rapidly toxicity increases.[27][28] In the amounts that can be tolerated by plants, boron has no measurable effect on the physical properties of soil or on soil salinity.

Symptoms of boron toxicity include retarded growth, brown leaf margins, and death of shoots. Its presence in soil at levels toxic to plants is rare worldwide, although it is not uncommon in California due to the commonality of high-pH soils.

Soluble soil boron exists largely as the dihydrogenborate anion ($H_2BO_3{}^-$) or as boric acid (H_3BO_3). Under basic conditions (high pH), the tetrahydroxyborate ion, $B(OH)_4{}^-$, forms. Salts of tetrahydroxyborate are sparingly soluble. Hence, irrigation or drainage water high in dissolved boron applied to basic soil tends to result in boron being deposited in the soil. Over time, large concentrations of boron can accumulate, leading to toxicity to crops. The original source of boron in water may be volcanoes or ancient marine salt deposits. Basic (alkali) soils are typically found in semi-arid or arid regions, where the problem of boron accumulation is compounded by a shortage of rainfall that would otherwise mitigate the problem by leaching some boron out of the soil. Large expanses of boron-laden soils exist in the arid parts of the world, such as Australia, the Middle East, and the Mojave Desert of southern California. Borax (boron ore) is mined in the Mojave Desert.

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[25] Phosphoric anhydride consists of 57.4 percent oxygen and 43.6 percent phosphorus by weight. Potassium oxide consists of 17 percent oxygen and 83 percent potassium by weight.

[26] See: Tanji, K, and Kielen, N. *Agricultural drainage water management in arid and semi-arid areas* (FAO irrigation and drainage paper no. 61). Food and Agriculture Organization of the United Nations (2002). ISBN 92-5-104839-8.

[27] Ayers, Robert. *Quality of water for irrigation.* In: *Journal of the irrigation and drainage division*, June 1977, page 136, table 1, "Guidelines for interpretation of water quality for irrigation".

[28] Nable, R.O.; Bañuelos, G.S.; and Paull, J.G. *Boron toxicity.* In: *Plant and soil*, issue 193, pp. 181–198 (1997).

Crop	Boron sensitivity	Salinity sensitivity
alfalfa	tolerant	somewhat sensitive
almond	sensitive	sensitive
blackberry	very sensitive	sensitive
corn	somewhat tolerant	somewhat sensitive
grape	sensitive	somewhat sensitive
lemon	very sensitive	sensitive
pistachio	tolerant	somewhat sensitive
sorghum	very tolerant	somewhat tolerant
sunflower	sensitive	somewhat tolerant
tomato	tolerant	somewhat sensitive
purple vetch	tolerant	somewhat sensitive
walnut	sensitive	sensitive
wheat	sensitive	somewhat tolerant

Table 8.5 Boron and salinity tolerance of selected crops. The maximum boron concentration in irrigation water or soil solution before yields are reduced is 0.3 (mg B) $\cdot$ L^{-1} for boron-sensitive crops, 1–2 (mg B) $\cdot$ L^{-1} for semi-tolerant crops, and 2–4 (mg B) $\cdot$ L^{-1} for boron-tolerant crops. Salinity-sensitive crops may have reduced yields where salinity exceeds 2 dS $\cdot$ m^{-1}. Yield reductions for somewhat-sensitive crops begin at 3 dS $\cdot$ m^{-1}; for somewhat-tolerant crops, at 6 dS $\cdot$ m^{-1}.

In acidic conditions, boric acid and salts of dihydrogenborate are the predominant forms of boron in soil. Due to their high solubility, these forms of boron readily enter the soil solution and can then be leached out of soil. Hence, excessive boron is rarely a problem with acidic soils. Wherever soil is acidic and there is substantial rainfall (for example, in the Pacific Northwest and the eastern USA), boron deficiency can be observed.

8.8 Sodium

The soil samples have been analyzed for sodium content.

The detrimental effect of sodium on soil structure has already been discussed in the context of exchangeable-cation percentages (section 8.5). Sodium is not used as a nutrient by most plants, although it is an essential nutrient for humans and other animals. Sodium is directly toxic to plants in sufficient amounts. However, at the levels typically encountered in agricultural soils, its direct toxicity is not the principle concern. Rather, its undesirability comes from its effect on soil structure and from its contribution to total salinity.

8.9 Organic matter

The soil samples have been analyzed for percent organic matter.

Organic matter in soil originates from the remains of plant and animal matter that have partially decomposed. Its main source in agriculture is crop residue. Much soil organic matter exists in the form of HUMIC ACID, which consists of very large organic molecules of variable structure with numerous ion-exchange sites, which contribute to the cation-exchange capacity of the soil. Humic acid is reasonably stable in soil unless unfavorable management practices, such as excessive

tillage or overfertilization, accelerate its decay. The beneficial properties of soil organic matter for agriculture are numerous, including moderating pH, retaining water and plant nutrients, and improving soil structure.[29] Soil organic matter also contains a reserve of organic nitrogen, which is released slowly and can be used by crops.

The organic-matter content of soil is highly susceptible to either improvement (increase) or worsening (decrease) depending on management.

[29] *The importance of soil organic matter: Key to drought-resistant soil and sustained food and production* (FAO soils bulletin no. 80). Food and Agriculture Organization of the United Nations (2005). ISBN 92-5-105366-9.

9 Appendix: Consultant qualifications

Qualifications of Gregory A. House

Agricultural Consultant
Agronomist
Professional Farm Manager
Rural Appraiser
Farmer

Experience

Agricultural Consultant, House Agricultural Consultants, providing agricultural science, economics, management, and appraisal services, 1983–present

Farmer, 1987–present. Organic apples, peaches, cherries, apricots, and field crops

Corporation Secretary & Consulting Agronomist, Hannesson, Riddle & Associates, Inc., 1977–1983.

Professional Affiliations

- American Society of Farm Managers & Rural Appraisers
- American Society of Agronomy
- Crop Science Society of America
- Soil Science Society of America
- California Certified Organic Farmers
- California Farm Bureau

Accreditations

- Accredited Farm Manager (A.F.M.), American Society of Farm Managers & Rural Appraisers, Certificate #501
- Certified Professional Agronomist (CPAg.), American Registry of Certified Professionals in Agronomy, Crops. & Soils, Ltd. Certificate # 2319
- Certified Crop Advisor (CCA), American Registry of Certified Professionals in Agronomy, Crops. & Soils, Ltd.
- Accredited Rural Appraiser (A.R.A.), American Society of Farm Managers & Rural Appraisers, Certificate #749
- Certified General Appraiser, State of California License # AG 001999

These credentials have continuing education requirements with which I am in compliance.

Qualifications of Gregory A. House, continued

Education

- B.S., Crop Ecology, University of California, Davis, 1975, with Honors
- Numerous courses from the University of California Extension in agricultural economics, crop management, real estate, & hazardous waste management
- Courses of the American Society of Farm Managers and Rural Appraisers:
  - Principles of Rural Appraisal
  - Advanced Rural Appraisal
  - Eminent Domain
  - Report Writing School
  - Economics of Farm Management
  - Principles of Farm Management
  - Standards and Ethics
  - Permanent Plantings Seminar
  - Standards and Ethics for Farm Managers
  - ASFMRA Code of Ethics
  - National Uniform Standards of Professional Appraisal Practice
- Courses of the Appraisal Institute:
  - Basic Valuation Procedures
  - Real Estate Statistics and Valuation Modeling
  - Advanced Income Capitalization
  - Valuation of Conservation Easements Certificate Program
  - Condemnation Appraising: Principles and Applications

Expert Witness Court Testimony

- Superior Court Qualified Expert Witness in the following California counties: Alameda, Colusa, Fresno, Madera, Monterey, San Joaquin, San Luis Obispo, Santa Barbara, Santa Cruz, Sonoma, Sutter
- United States Tax Court Qualified Expert Witness
- United States Bankruptcy Court Qualified Expert Witness
- A list of depositions and trial appearances is available upon request

Qualifications of Gregory A. House, continued

Appointments & Activities

- Instructor, "Principles of Farm Management", an Internet course of the American Society of Farm Managers and Rural Appraisers, 1996 to 2007
- President, California Chapter American Society of Farm Managers & Rural Appraisers 1994–1995; Secretary-Treasurer, 1984 to 1990
- Board of Directors, Yolo Land Trust, 1993–2001
- Board of Directors, American Red Cross, Yolo County Chapter 1987–1989
- Member, Yolo County Right to Farm Grievance Committee 1992–1995
- Vice Chairman, Management Education Committee, American Society of Farm Managers and Rural Appraisers, 1998–2000 (committee member since 1986)
- Yolo County LAFCo Agricultural Forum LESA subcommittee, 1999
- California Certified Organic Farmers

  Treasurer of the Board of Directors, 1998–2003

  Executive Director, 1999-2000

  Chairman of Certification Committee, Yolo Chapter, 1993-2005

  Member of the Finance Committee, 1998-current
- CCOF Foundation Going Organic Program, Management Team member and Chapter Leader, 2006-current
- USDA Organic Grant Panel member, 2002
- City of Davis Open Space and Habitat Commission, Chairman, 2006–current
- Member, Fruit Orchard Technical Advisory Group, Filoli Gardens, Woodside, California
- Member, Organic and Sustainable Agriculture Program Steering Committee, University of California Cooperative Extension, Yolo and Solano Counties, California, 2008-current

Awards

- CCOF Presidential Award, California Certified Organic Farmers, February, 2001
- Meritorious Service in Communications, American Society of Farm Managers and Rural Appraisers, November 2004
- H.E. Buck Stalcup Excellence in Education Award, American Society of Farm Managers and Rural Appraisers, October, 2011

Qualifications of Gregory A. House, continued

Speaking Engagements

- Guest Lecturer, University of California at Davis, Agricultural Economics 145, Farm and Rural Resources Appraisal, on professional farm appraisal (1985–1997)
- Guest Lecturer, University of California at Davis, Agricultural Economics Department, Course 140, "Farm Management", on adoption of new technologies, farm budgeting, cash flow management, cost accounting, etc. (1985–present)
- Guest Lecturer, University of Florida at Gainesville, Vegetable Crops Department, seminar on transition to organic agriculture, (November, 1994)
- Featured Speaker, 1995 Eco-Farm Conference, Asilomar, California , on economics of organic apple production
- Guest Speaker, Community Alliance with Family Farmers, on farm management and agricultural economics, 1996 and 1997
- Instructor, American Society of Farm Managers and Rural Appraisers, Course M-12, "Standards and Ethics for Professional Farm Managers", March, 1997
- Guest Speaker, American Horticultural Society, "Challenges of Organic Stone Fruit Production", Sacramento, California, July 2001
- Organizer and Presenter, Going Organic Kickoff Meetings, November 2005 and December 2006
- Master of Ceremonies, California Certified Organic Farmers, Annual Meeting, February, 2006, Sacramento, California
- Featured Speaker, 2012 Eco-Farm Conference, Asilomar, California , "Imitating Natural Systems: Towards an Indigenous Agro-forestry"

Publications

- "Principles of Farm Management", Course M-10, a 40-hour professional credit Internet educational offering of the American Society of Farm Managers & Rural Appraisers
- "Conservation Issues in Agriculture", a unit of Course M-25, a 15-hour professional credit Internet educational offering of the American Society of Farm Managers & Rural Appraisers
- "A Primer on Organic Agriculture," an article in *2006 Trends in Agricultural Land and Lease Values*, a publication of the California Chapter of the American Society of Farm Managers & Rural Appraisers
- "Case Study: Using Indigenous Agroforestry Management Techniques to Support Sustainability in Production Agriculture", a paper-poster presented at Harlan II, An International Symposium on Biodiversity in Agriculture: Domestication, Evolution and Sustainability, September 14-18, 2008, University of California, Davis

Qualifications of Henry House

Experience

Agricultural Consultant, House Agricultural Consultants, providing agricultural science, economics, management, and appraisal services, 1999–present

Education

- B.S., Natural History, University of California, Davis, 1999, with Honors, coursework in agronomy, botany, ecology, entomology, geology, hydrology, nematology, plant pathology, pomology, soil biology, sustainable agriculture, statistics, and wildlife biology
- Numerous courses from the Appraisal Institute

Appointments

- Assistant instructor, "Principles of Farm Management", an Internet course of the American Society of Farm Managers & Rural Appraisers, current
- Course proctor, "M-25: Enhanced Client Services", an Internet course of the American Society of Farm Managers & Rural Appraisers, current
- Board of Directors, Davis Farmers Market Association, 2001–2003
- Board of Directors, Linux Users' Group of Davis, 2000–present
- Volunteer for U.C. Davis Arboretum, 1996–present

Professional Skills

- GIS technology including raster and vector analysis
- Statistical Analysis including regression analysis and anova
- Computer programming languages: C, C++, Ruby, and Perl

House Agricultural Consultants
Partial Listing of Clients Served

Allied Insurance Group

American Farmland Trust

Bank of America

City of Davis

City of Fairfield

City of Sacramento

Continental Casualty Company
Chicago, Illinois

County of Solano

County of Yolo

Downey, Brand, Seymour & Rohwer
Sacramento, California

Glenn-Colusa Irrigation District

Hamel Ranch Partnership
Davis, California

Farmers' Home Administration (U.S.D.A.)
Sacramento, California

McMahon-Graf Partners
Winters, California

Morrison & Foerster
San Francisco, California

Oakdale Irrigation District

Pajaro Valley Water Management Agency
Watsonville, California

Republic Indemnity Company of America
San Francisco, California

Royal & Sun Alliance

Sacramento Valley Farm Credit Banks
Woodland, California

San Andreas Farms
Fresno County, California

San Joaquin Council of Governments

San Luis Delta Mendota Water Authority

Sanwa Bank, N.A

Stanford University

State of California, Department of Fish & Game, Wildlife Conservation Board

State of California, Department of Justice

The Nature Conservancy

The Prudential Agricultural Group
Sacramento, California

The Travelers Insurance Company

The Trust for Public Land

United States Fish & Wildlife Service

United States Department of Justice

United States Department of Treasury, Internal Revenue Service

University of California, Davis

Wells Fargo Bank, N.A.

10 Appendix: Exhibits

STATE OF CALIFORNIA – NATURAL RESOURCES AGENCY EDMUND G. BROWN, JR., *GOVERNOR*

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

July 18, 2011

Bob Hartstock
P.O. Box 319
The Sea Ranch, CA 95497

SUBJECT: Information needed for *de novo* review of Appeal No. A-1-MEN-09-034 (Michael Marr & Judith Malin), Proposed 2,524-Square-Foot Single-Family Home with 2,138-Square-Foot Accessory Structure and Related Development at 2800 North Highway One, Albion, Mendocino County

Dear Mr. Hartstock:

Thank you for your recent submittals addressing proposed and past uses of the subject parcel (APN 123-350-06). The information you submitted has raised some additional questions regarding the consistency of the proposed development with the agricultural policies of the Mendocino County LCP, requiring further information and clarification to complete our analysis of the project's consistency with the agricultural policies of the certified LCP and to prepare a recommendation for review by the Commission. Therefore, we are requesting that you provide the additional information described below.

The submittal from applicant Mike Marr dated December 17, 2009 and received at our office on December 22, 2009 (and which responds to Commission staff's requested "Information Needed to Evaluate Project Consistency with Coastal Act Section 30010" in the August 27, 2009 staff report), describes the owners' intent for the subject parcel as an "area to build both a workshop and home." The document describes that Mr. Marr "…is a building contractor and wood worker…Mike will be building our home and workshop and once established, he will be working in the community building for others and creating custom cabinetry. The workshop will provide affordable space to work, store equipment and materials and earn an income. Our modest sized home will be a full time residence for Mike and Judy and their son…"

As you are aware, the subject parcel is zoned RL-160 (rangelands, 160-acre minimum). Mendocino County land use plan (LUP) Chapter 2 describes the intent of the rangelands land use classification as follows:

> *The Range Lands classification is intended to be applied to lands which are suited for and are appropriately retained for the grazing of livestock and which may also contain some timber producing areas. The classification includes land eligible for incorporation into Type II Agricultural Preserves, other lands generally in range use, intermixed smaller parcels and other contiguous lands, the inclusion of which is necessary for the protection and efficient management of range lands.* (Emphasis added)

The 4.17-acre size of the subject parcel is recognized by the County of Mendocino as a legal non-conforming parcel size that cannot be subdivided. Regardless of the parcel size, Mendocino County Coastal Zoning Code (CZC) Section 20.532.100(A)(2) requires supplemental findings to be made to approve development on resource lands designated AG, RL, and FL. These policies require findings to be made by the County or by the Commission on appeal that demonstrate in part the following: (a) The proposed use is compatible with the long-term protection of resource lands[1]; and (b) The project ensures existing land use compatibility by maintaining productivity of onsite and adjacent agricultural lands[2]. These two findings are also needed to find that the proposed development is consistent with LUP Policies 3.2-5 and 3.2-16 as well as Coastal Zoning Code Section 20.532.100(B)(3).

In a memo you submitted dated June 28, 2011, you describe that the subject parcel was previously leased by a landowner with adjacent landholdings for cow grazing from the late 1970's to the late 1990's. The memo describes that at the time, the cows grazed approximately 2 acres of the property. In the same memo, you state, "Because of the small size of the Marr/Malin property, it is not feasible to graze animals on their land. Less than 2 acres have slopes of 5% or less. According to a report from the University of Arizona, College of Agriculture 11/2004 (assuming 450 lbs of forage/acre, far below the USDA average), one 1000 lb cow could graze 2 acres in 15 days. Beyond that, hay and water would have to be trucked in, on a regular basis."

Based upon the information provided, it appears that some agricultural use of the property has occurred in the past. CZC Section 20.532.100(A)(3) mandates the following:

> *Conversion of all other agricultural lands to non-agricultural uses will be prohibited unless it is found that such development will be compatible with continued agricultural use of surrounding lands and at least one of the following findings applies:*
>
> *(a) Continued or renewed agricultural use is not feasible as demonstrated by an economic feasibility evaluation prepared pursuant to Section 20.524.015(C)(3);*
>
> *(b) Such development would result in protecting prime agricultural land and/or concentrate development.*

CZC Section 20.524.015(C)(3), as referenced in the above stated policy, describes the feasibility study requirements as follows:

> *(3) An economic feasibility evaluation prepared by a land use economist with expertise in the economics of agriculture which shall contain the following:*
>
> *(a) An analysis of the gross revenue from the agricultural products grown in the area for the five (5) years immediately preceding the date of the filing of proposed conversion and/or division; and*
>
> *(b) An analysis of the operational expenses beyond the control of the owner/operator associated with the production of the agricultural*

[1] CZC 20.532.100(A)(2)(a)
[2] CZC 20.532.100(A)(2)(g)

> *products grown in the area for five years immediately preceding the date of the filing of the proposed conversion and/or division.*
>
> *(c) The economic feasibility analysis shall be reviewed for adequacy by the Department of Planning and Building Services and the County Agricultural Commissioner prior to a determination that the application is complete for processing. If the report is determined inadequate, the applicant shall submit the required information to the satisfaction of the Department of Planning and Building Services and County Agricultural Commissioner. The application will not be considered complete until the feasibility analysis is submitted and deemed acceptable.*
>
> *(4) For purposes of this subsection "area" means a geographic area of sufficient size to provide an accurate evaluation of the economic feasibility of agricultural uses for those lands included in the Coastal Element. (Ord. No. 3785 (part), adopted 1991)*

Section 3.2 of the Mendocino Land Use Plan incorporates by reference Sections 30241 and 30242 of the Coastal Act. Section 30241(b) of the Coastal Act limits conversions of agricultural lands to the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development. This section of the Act applies to situations where urban uses are already compromising the agricultural viability of adjacent agricultural lands by conflicts with urban uses such as light, noise, human activity, stormwater runoff associated with developed areas, and other similar urban use conflicts.

As part of Commission staff's analysis of the proposed project, staff must determine, among other things, whether "the proposed development is in conformity with the certified local coastal program,"[3] and whether "The proposed development is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of this Division and preserves the integrity of the zoning district."[4] Refer to Attachment A for some of the key LCP Policies related to projects proposed on agricultural lands (which includes lands designated RL).

Additional information is needed to evaluate the proposal for consistency with the agricultural protection policies of the LCP. Specifically, additional information is needed to determine whether (a) the proposed development is compatible with the long-term protection of resource lands, and (b) that it maintains the productivity of on-site and adjacent agricultural lands. Furthermore, additional analysis is needed to determine the feasibility of continued or renewed agricultural use of the site, both for grazing and cultivation.

Therefore, please provide an analysis that addresses these key provisions of the agricultural policies of the certified LCP and specifically addresses the following items. The analysis should be prepared by a land use economist with expertise in the economics

[3] CZC Section 20.532.095(A)(1)
[4] CZC Section 20.532.095(A)(3)

of agriculture (or equivalent professional) and should be large enough in scope to cover surrounding agricultural lands in the coastal zone of Mendocino County. The information provided should include but not be limited to the following:

1. A description of the site characteristics affecting agricultural land use and production. This should include descriptions of
    a. Description of soils (see #2 below);
    b. Water resources (in terms of availability, sources, and water quality issues that impact agricultural operations in the area, such as high mineral content, saltwater intrusion);
    c. Access (in terms of adequacy of access to agricultural operations in the area. If access is problematic, discuss the nature of the conflict; and the impacts the access limitations have on agricultural operation(s));
    d. key variables impacting agriculture
    e. Potential impacts of the proposed development in general, and for each of the proposed structures (residence and workshop/guest suite) in particular, on agricultural food production both on-site and on the adjoining agricultural lands.
    f. whether available lands on the parcel not suitable for agriculture are being developed before converting agricultural lands;
    g. an analysis of whether and how the viability of agricultural uses is severely limited by conflicts with urban uses;

2. Soils Characterization of Subject Site and Surrounding Rangelands. Provide:
    a. A description of the soils in the area, including a current soil classification map showing soil types found both at the subject parcel and on other designated rangelands in the area;
    b. Storie index and capability classification ratings or equivalent ratings of all identified soil types (as published by the NRCS, United States Department of Agriculture);
    c. The expected AUM (animal unit per month) yield for each soil type.
    d. The expected net dollar return for potential crops (tree crops, row/field crops) grown on each soil type.
3. Other Agricultural Uses.
    a. Discuss opportunities for cooperative agreements with neighboring properties (for example, whether this parcel could be leased to other ranchers, including the adjacent parcel, for grazing).
    b. Identify agricultural uses in the area that are not dependent upon the soil (e.g., greenhouse-based cultivation, small-scale poultry operations, apiary, etc.), if any, and, the location and nature of their operation(s).

4. Geographic/Historical information. Document the following:
    a. Existing land uses on the site;
    b. Adjacent land uses;
    c. Potential effects of the proposed agricultural land conversion or development on agricultural food production, both short-term and long-term; and recommendations and conclusions of the development's effects on existing or potential agricultural production;
    d. Description of factors such as slope, temperature, adequate sunlight, length of growing season, precipitation, coastal winds, soil quality (depth, drainage, capability classification rating, texture, development, unique qualities) affecting agricultural operations in the area.
    e. Description of management techniques currently used, or that could be used, to improve soil quality for agricultural operations.
    f. Identification of agricultural operations that utilize more than one parcel for production in the area, and identification of the current agricultural practices and average acreage for each individual operation.
    g. Description of the relationship or proximity of agricultural and urban land uses.
    h. The types of agricultural operations that have taken place in the area in the past and where have they occurred.
5. Operational expenses. For the subject property, provide an analysis of the costs that would be associated with grazing, livestock, and producing crops grown in the Mendocino coastal zone, and include the following:
    a. Fixed costs for each livestock and crop type, assumed to be constant regardless of the annual yield, based solely on current costs and not speculative on potential future circumstances. Note: Land costs are not to be included into the cost analysis pursuant to Coastal Act Section 30241.5.
    b. Capital costs including:
        i. Land improvements (i.e., fences, roads, clearing, leveling, wells and pumps, etc.
        ii. Equipment, i.e. trucks, tractors, buildings, special equipment (e.g. irrigation), etc.
        iii. Herd expenses, i.e., payment for bulls and heifers; and
        iv. Miscellaneous expenses. Cost determination must also include depreciation and interest expenses.
    c. Cultivating cost including operating costs for:
        i. Labor (i.e., the amount of hours necessary for planting and the rate of pay per hour including benefits;

ii. Materials, i.e., water, seed, feed supplements, salt, fertilizer, and pesticides;

iii. Machinery;

iv. Fuel and repair; and

v. Outside consultants (i.e., veterinary and management).

d. Variable costs. The harvest costs based on the amount of yield only, expressed as the cost per unit of yield (e.g., tons, bushels, 100 weight, or pounds).

6. Gross revenue. Provide:

a. Economic evaluation of the gross revenue and operational costs, excluding land values, of the livestock and crops in the geographic area of the proposed land conversion

b. An analysis of the gross revenue from the agricultural products grown in the area for the five (5) years immediately preceding the date of the filing of proposed development factoring in the appropriate Producer Price Index (PPI) value to account to inflation over time.

7. Evaluations incorporating cost and revenue figures. Provide information regarding:

a. The requisite minimum acreage for continued viable agricultural operation (farm family approach). Demonstration of continued viability shall be based upon:

i. A determination of projected net income, taking into account production costs by crop computed on a per acre basis and subtracted from gross market receipts expected from that crop. The resulting farmer income per acre of productive land shall then be divided into the county's median income figure to compute the number of acres required to support a farm family; or

ii. A determination of net return per acre, per crop type, for the area only by crop type. The gross revenue per acre for subject crop types as listed in the County Agricultural Commissioner's annual report subtracting the cost per acre associated with each crop type.

Again, thank you for your cooperation in providing the above-listed items. If you have any questions, please don't hesitate to call me at 445-7833.

Sincerely,

SIGNATURE ON FILE

TAMARA L. GEDIK
Coastal Program Analyst

cc: Mike Marr and Judith Malin

ATTACHMENT A

LCP EXCERPTS

(emphasis added)

I. Agriculture LCP Policies

"Agriculture Issues" narrative of Mendocino County Land Use Plan (LUP) **Section 3.2** states the following:

> *Coastal terraces and bottom land historically were farmed in small units by families dependent on agriculture for their livelihood. Potatoes, truck crops, hogs, poultry, beef cattle and dairies did well and farm products were sold both locally and outside the area. However, in the past 30 years, government regulations and technological changes in food processing and trucking have encouraged large-scale, centralized agricultural operations, ill-suited to the coast's small areas of prime soils, relatively small land holdings, and family-run enterprises. Since the late 1960's, commercial coastal agriculture has consisted primarily of livestock and dairy farms and flower and plant nurseries.*
>
> *Several physical and market factors limit agricultural production in the coastal zone, including insufficient soil depths; excessive or irregular drainage; lack of water; a cool climate; predation of livestock; isolation from agricultural support services; limited labor availability; and small parcels.*
>
> *About 3,500 acres of land in the coastal zone are tilled, irrigated or cropped, mostly for forage. Milk production has been reduced to three dairies, and former dairy operators are raising replacement dairy heifers. There are 40 livestock operators in the coastal zone, raising 1,200 head of beef and 4,300 sheep. However, only one quarter of these farms are operated as the fulltime occupation of their owners. Full-time operations are concentrated between Elk and Point Arena, where the largest areas of prime soils are found. Elsewhere, highly productive soils are found only in small patches, rendering full-time farming uneconomical at this time. North of the Navarro River, agricultural activity has been affected by residential development. This trend is not significant in the Point Arena area, but some farmers, uncertain about the continued viability of agriculture in the coastal zone, may have deferred capital investment. The land use policies of the Coastal Element, with its emphasis on the preservation and enhancement of agriculture, should encourage these landowners to maintain their farms in production.*
>
> *Coastal agriculture includes several nurseries principally raising fuchsias, azaleas, and rhododendrons. Forty acres near Caspar supports daffodils, suggesting a potential for a bulb industry similar to that in Del Norte County. Many farms sell produce locally and many residents are industrious part-time*

fruit and vegetable farmers. For raising sheep and cattle, the minimum parcel size required to support an operator varies from year to year, depending upon livestock prices.

Only 10 ranches have "full-time" acreage and are operated as a principal source of income. Minimum parcel sizes for field crops are smaller-about 10 acres of specialty vegetables and general crops is sufficient to realize a return on the cost of production and labor. Marketing is a primary constraint: a few growers could saturate the local market, while a large total acreage (perhaps as many as 1,000 acres of a crop such as brussel sprouts) would be necessary to make marketing outside the County economically feasible.

There are two main barriers to assembling parcels of a size sufficient for profitable, full-time farming. Land division and conversion to non-agricultural uses has progressed in certain sections of the coast to the point that consolidation to raise livestock is no longer practical. In other areas, property owners, anticipating subdivision of their Williamson Act lands, ask high prices of would-be buyers.

However, the outlook for coastal agriculture in Mendocino may not be as bleak as the previous discussion implies. Small-scale or part-time farming could become more practical if current agricultural trends change. Energy costs could increase to the point that local production of food becomes competitive. Indeed, many residents stress that coastal agriculture is not dead but growing in directions other than toward large-scale, one-crop farming.

Offering Williamson Act tax benefits to small agricultural parcels is seen by many residents as a potential means of encouraging local agriculture. Although the Board of Supervisors has accepted parcels as small as 10 acres at a few locations, allowing small parcels that are primarily used for rural residential purposes into an agricultural preserve could invite a legal challenge. The County has received few applications for Williamson Act contracts from coastal property owners since Proposition 13 diminished potential tax benefits. However, if there is a dramatic rise in the assessed value of coastal land when ownership changes, Williamson Act contracts will become increasingly attractive.

LCP Policies

LUP Chapter 2 describes the intent of the RL (rangelands) land use classification as follows:

The Range Lands classification is intended to be applied to lands which are suited for and are appropriately retained for the grazing of livestock and which may also contain some timber producing areas. The classification includes land eligible for incorporation into Type II Agricultural Preserves, other lands generally in range use, intermixed smaller parcels and other contiguous lands,

the inclusion of which is necessary for the protection and efficient management of range lands.

Coastal Act Section 30241 "Prime agricultural land; maintenance in agricultural production" (incorporated by reference in LUP Chapter 3.2) states:

The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas' agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:

(a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.

(b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.

(c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.

(d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.

(e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.

(f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.

(Amended by: Ch. 1066, Stats. 1981; Ch. 43, Stats. 1982.)

Section 30241.5 Agricultural land; determination of viability of uses; economic feasibility evaluation

(a) If the viability of existing agricultural uses is an issue pursuant to subdivision (b) of Section 30241 as to any local coastal program or amendment to any certified local coastal program submitted for review and approval under this division, the determination of "viability" shall include, but not be limited to, consideration of an economic feasibility evaluation containing at least both of the following elements:

(1) An analysis of the gross revenue from the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program.

(2) An analysis of the operational expenses, excluding the cost of land, associated with the production of the agricultural products grown in the area for the five years immediately

preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program.

For purposes of this subdivision, "area" means a geographic area of sufficient size to provide an accurate evaluation of the economic feasibility of agricultural uses for those lands included in the local coastal program or in the proposed amendment to a certified local coastal program.

(b) The economic feasibility evaluation required by subdivision (a) shall be submitted to the commission, by the local government, as part of its submittal of a local coastal program or an amendment to any local coastal program. If the local government determines that it does not have the staff with the necessary expertise to conduct the economic feasibility evaluation, the evaluation may be conducted under agreement with the local government by a consultant selected jointly by local government and the executive director of the commission.

(Added by Ch. 259, Stats. 1984.)

Coastal Act Section 30241 "Lands suitable for agricultural use; conversion" (incorporated by reference in LUP Chapter 3.2) states:

All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (l) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.

LUP Policy 3.2-1 states:

All agricultural land use, as represented within the agriculturally designated boundaries on the land use maps, shall be designated AG 60 or RL 160 for the purpose of determining density.

This will support continued coastal agriculture use. One housing unit will be allowed for each existing parcel. Additional dwellings for resident agricultural workers shall be considered as conditional uses, subject to the provisions of this plan.

LUP Policy 3.2-4 states:

Zoning regulations shall not discourage compatible activities that enhance the economic viability of an agricultural operation. These may include cottage industry, sale of farm products, timber harvesting, not subject to the Forest Practices Act and limited visitor accommodations at locations specified in the plan. Visitor accommodations shall be secondary to the agricultural activity. Proposed projects shall be subject to a conditional use permit. Granting of the permit shall require affirmation findings to be made on each of the following standards. The project shall:

- *maximize protection of environmentally, sensitive habitats;*
- *minimize construction of new roads and other facilities;*
- *maintain views from beaches, public trails, roads and views from public viewing areas, or other recreational areas;*
- *ensure adequacy of water, sewer and other services;*
- *ensure preservation of the rural character of the site; and*
- *maximize preservation of prime agricultural soils;*
- *ensure existing compatibility by maintaining productivity of on site and adjacent agricultural lands.*

No permit shall be issued to convert prime land and/or land under Williamson Act to non-agricultural uses, unless all of the following criteria are met:

1. *all agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable; and*
2. *agricultural use of the soils can not be successfully continued or renewed within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Section 30108 of the Coastal Act); and*
3. *clearly defined buffer areas are developed between agricultural and nonagricultural uses (see Policies 3.2-9, 3.2-12 and 3.2-13); and*
4. *the productivity of any adjacent agricultural lands is not diminished, including the ability of the land to sustain dry farming or animal grazing; and*
5. *public service and facility expansions and permitted uses do not impair agricultural viability, either through increased assessment costs or degraded air and water quality; and*
6. *in addition, for parcels adjacent to urban areas, the viability of agricultural uses is severely limited by conflicts with urban uses, and the conversion of land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.*

Coastal Zoning Code (CZC) Section 20.532.095 "Required Findings for All Coastal Development Permits" states:

(A) The granting or modification of any coastal development permit by the approving authority shall be supported by findings which establish that:
(1) The proposed development is in conformity with the certified local coastal program; and
(2) The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities; and
(3) The proposed development is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of this Division and preserves the integrity of the zoning district; and

(4) The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.
(5) The proposed development will not have any adverse impacts on any known archaeological or paleontological resource.
(6) Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.

(B) If the proposed development is located between the first public road and the sea or the shoreline of any body of water, the following additional finding must be made:
(1) The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and the Coastal Element of the General Plan. (Ord. No. 3785 (part), adopted 1991)

Coastal Zoning Code (CZC) Section 20.532.100 "Supplemental Findings" states in applicable part the following:

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

(A) Resource Protection Impact Findings.

(1) Development in Environmentally Sensitive Habitat Areas.

...

(2) Impact Finding For Resource Lands Designated AG, RL and FL. *No permit shall be granted in these zoning districts until the following finding is made: (a) The proposed use is compatible with the long-term protection of resource lands.*

(B) Agricultural Land Impact Findings.

(1) Development in Agricultural Zones. *No development subject to a coastal development use permit shall be issued on agricultural land until the following findings are made:*
(a) The project maximizes protection of environmentally sensitive habitat areas;
(b) The project minimizes construction of new roads and other facilities;
(c) The project maintains views from beaches, public trails, roads and views from public viewing areas, or other recreational areas;
(d) The project ensures the adequacy of water, waste water disposal and other services;
(e) The project ensures the preservation of the rural character of the site.
(f) The project maximizes preservation of prime agricultural soils;
(g) The project ensures existing land use compatibility by maintaining productivity of onsite and adjacent agricultural lands.

> ***(2) Impact Findings for Conversion of Prime Agricultural or Williamson Act Contracted Lands.*** *Conversion of prime land and/or land under Williamson Act Contract to non-agricultural uses is prohibited, unless all of the following findings are made. For the purposes of this section, conversion is defined as either development in an AG or RL designation not classified as a residential, agricultural, or natural resource use type or the amending and rezoning of the Coastal Element Land Use Designation AG or RL to a classification other than AG or RL including amendments to add visitor-serving facilities.*
>
> *(a) All agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable;*
>
> *(b) Agricultural use of the soils cannot be successfully continued or renewed within a reasonable period of time, taking into account economic, environmental, social and technological factors;*
>
> *(c) Clearly defined buffer areas are established between agricultural and non-agricultural uses;*
>
> *(d) The productivity of any adjacent agricultural lands will not be diminished, including the ability of the land to sustain dry farming or animal grazing;*
>
> *(e) Public service and facility expansions and permitted uses do not impair agricultural viability, either through increased assessment costs or degraded air and water quality; and*
>
> *(f) For parcels adjacent to urban areas, the viability of agricultural uses is severely limited by contacts with urban uses, and the conversion of land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.*
>
> ***(3) Impact Findings for Conversion of Non-prime Agricultural Lands.*** *Conversion of all other agricultural lands to non-agricultural uses will be prohibited unless it is found that such development will be compatible with continued agricultural use of surrounding lands and at least one of the following findings applies:*
>
> *(a) Continued or renewed agricultural use is not feasible as demonstrated by an economic feasibility evaluation prepared pursuant to Section 20.524.015(C)(3);*
>
> *(b) Such development would result in protecting prime agricultural land and/or concentrate development.*

LUP Policy 3.2-5 states:

> *All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted*

conversion shall be compatible with continued agricultural use on surrounding lands.

Coastal Act Section 30250 states in applicable part the following:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

LUP Policy 3.2-16 states the following:

All agricultural lands designated AG or RL shall not be divided nor converted to non-agricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or (3) concentrate development consistent with Section 30250. Any such permitted division or conversion shall be compatible with continued agricultural use of surrounding parcels.

"Feasible", as used in this policy, includes the necessity for consideration of an economic feasibility evaluation containing both the following elements:

1. *An analysis of the gross revenue from the agricultural products grown in the area for the five years immediately preceding the date of the filing of proposed local coastal program or an amendment to any local coastal program.*
2. *An analysis of the operational expenses beyond the control of the owner/operator associated with the production of the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program.*

For purposes of this policy, "area" means a geographic area of sufficient size to provide an accurate evaluation of the economic feasibility of agricultural uses for those lands included in the local coastal plan.

Coastal Zoning Code (CZC) Section 20.524.015 "Coastal AG and RL Land Divisions" which is incorporated by reference in CZC Section 20.532.100(B)(3) states:

Before any division of prime agricultural land is granted tentative approval, the applicant shall file a master land division plan which shall contain at a minimum:

...

(3) An economic feasibility evaluation prepared by a land use economist with expertise in the economics of agriculture which shall contain the following:

(a) An analysis of the gross revenue from the agricultural products grown in the area for the five (5) years immediately preceding the date of the filing of proposed conversion and/or division; and

(b) An analysis of the operational expenses beyond the control of the owner/operator associated with the production of the agricultural products grown in the area for five years immediately preceding the date of the filing of the proposed conversion and/or division.

(c) The economic feasibility analysis shall be reviewed for adequacy by the Department of Planning and Building Services and the County Agricultural Commissioner prior to a determination that the application is complete for processing. If the report is determined inadequate, the applicant shall submit the required information to the satisfaction of the Department of Planning and Building Services and County Agricultural Commissioner. The application will not be considered complete until the feasibility analysis is submitted and deemed acceptable.

(4) For purposes of this subsection "area" means a geographic area of sufficient size to provide an accurate evaluation of the economic feasibility of agricultural uses for those lands included in the Coastal Element. (Ord. No. 3785 (part), adopted 1991)

Coastal Zoning Code (CZC) Chapter 20.508 "Agricultural Resources" states the following:

Section 20.508.005 Applicability.

This Chapter shall apply to all lands designated AG or RL within the County of Mendocino's Coastal Zone. (Ord. No. 3785 (part), adopted 1991)

Sec. 20.508.010 Purpose.

The purpose of this Chapter is to insure that the maximum amount of agricultural land shall be maintained in agricultural production to assure the protection of the area's agricultural economy. All other lands suitable for agricultural use shall not be converted to non-agricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands. (Ord. No. 3785 (part), adopted 1991)

Sec. 20.508.015 General Criteria.

An owner of property within an agricultural district, either AG or RL, may request agricultural preserve status under a Williamson Act contract pursuant to Chapter 22.08 of the Mendocino County Code. No permit shall be issued to convert prime lands and/or land under Williamson Act contracts to non-agricultural uses, without complying with Chapter 22.08 of the Mendocino County Code and making supplemental findings pursuant to Section 20.532.100(B)(2) and making the finding that continued, renewed, or potential

agricultural use of the property is not feasible based upon an economic feasibility evaluation prepared pursuant to Section 20.524.015(C)(3). (Ord. No. 3785 (part), adopted 1991)

Sec. 20.508.020 Buffer Areas.

Development adjacent to agriculturally designated parcels is subject to the following:

(A) Development Adjacent to Agriculturally Designated Parcels.

(1) No new dwellings in a residential area shall be located closer than two hundred (200) feet from an agriculturally designated parcel unless there is no other feasible building site on the parcel.

(2) New parcels shall not be created that would result in a dwelling within two hundred (200) feet of an agriculturally designated parcel.

AgSource Laboratories
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Tel: 402-476-0300
Fax: 402-476-0302

TRIPLE OPTION SOIL ANALYSIS

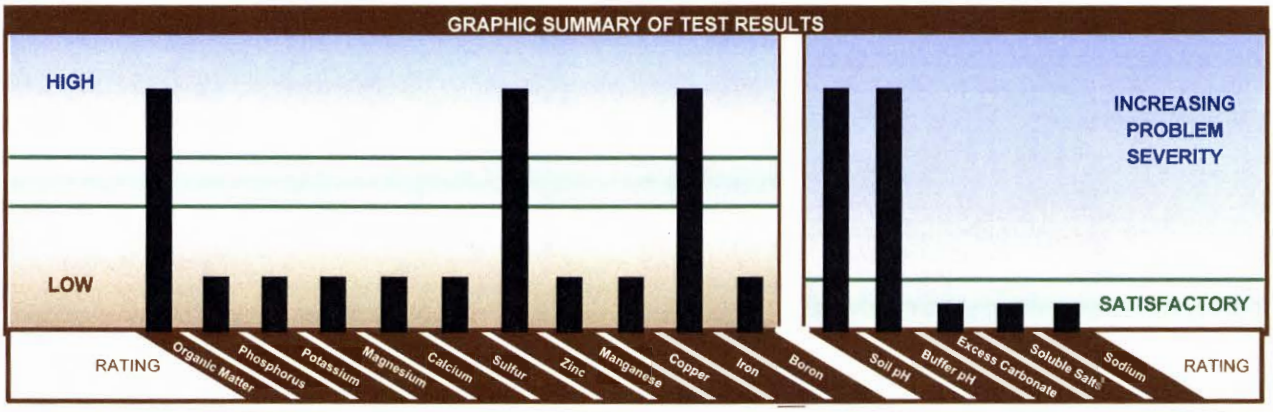
093356

Submitted By: 9561612
House Agricultural Cons.
1105 Kennedy Place
Suite 1
Davis, CA 95616

Submitted For:
MICHAEL MARR
ALBION, CA

Date Reported	Laboratory Turnaround	Samples Will Be Stored Until	Laboratory Sample #	Field Identification
20-Mar-2012	1 Day	03-Apr-2012	AG41533	

GRAPHIC SUMMARY OF TEST RESULTS



REPORT OF ANALYSIS	
YOUR SAMPLE NUMBER	001
Soil pH	5.3
Buffer Index	5.9
Excess Carbonate	VL
Soluble Salts mmhos/cm	0.3
Sodium ppm	33.0
% Organic Matter	6.4
ANALYSIS OF NUTRIENT ELEMENTS IS IN PARTS PER MILLION (ppm)	
Nitrate N	4.2
Phosphorus Bray 1 Olsen	11 --
Potassium	147
Magnesium	142
Calcium	578
Sulfate Sulfur	8
Zinc	4.8
Manganese	2.6
Copper	0.5
Iron	43.2
Boron	0.1
Bulk Density	1.1

FERTILIZER GUIDLINES IN: Lbs/Acre

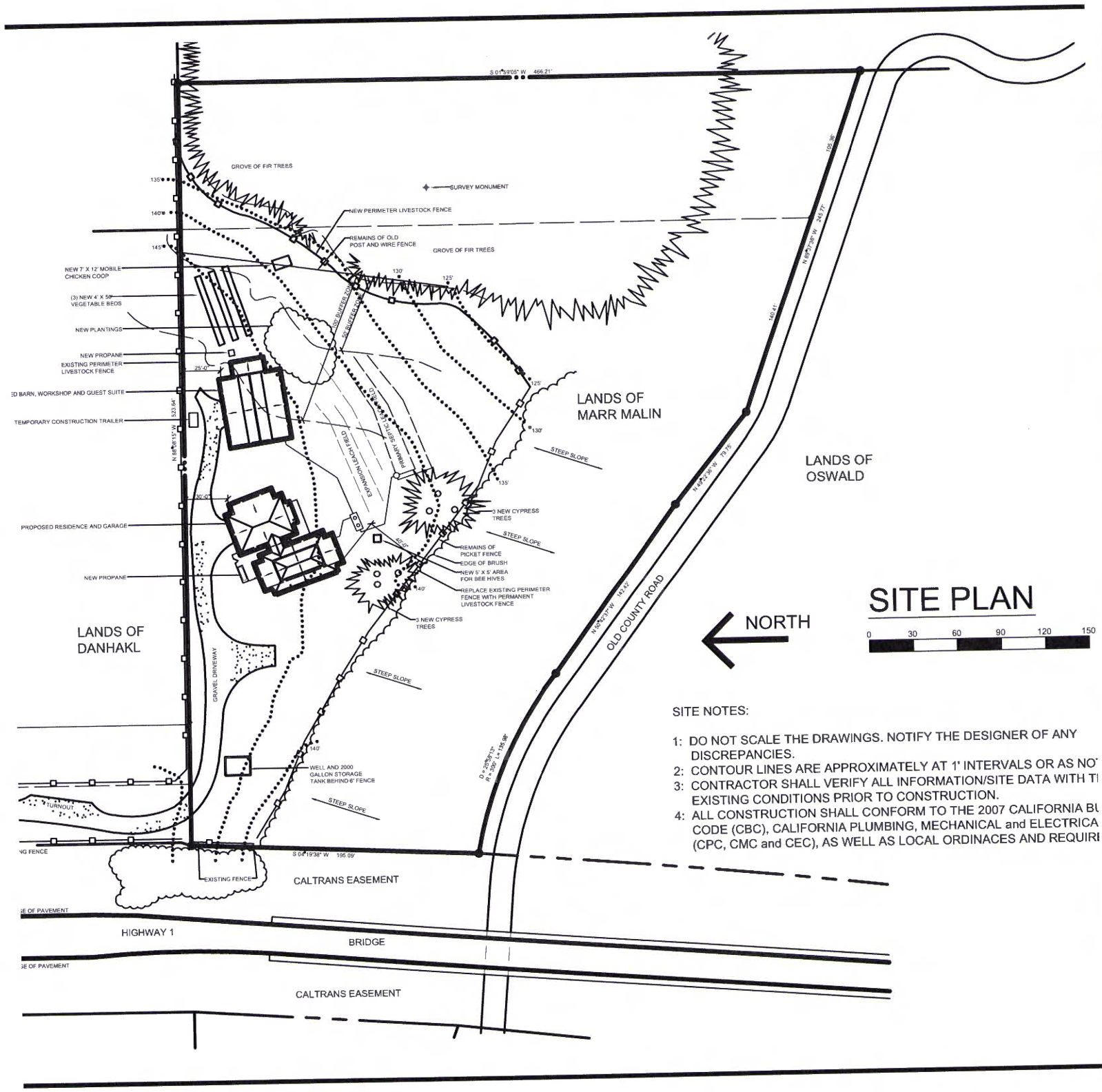
1st Option Intended Crop			2nd Option Intended Crop			3rd Option Intended Crop		
Pasture			Cabbage			Alfalfa		
Yield Goal			Yield Goal			Yield Goal		
			15 TO			6 TO		
Preceding Crop			Preceding Crop			Preceding Crop		
Pasture			Pasture			Pasture		
PLANT FOOD GUIDELINE RANGES		CROP REMOVAL RATES	PLANT FOOD GUIDELINE RANGES		CROP REMOVAL RATES	PLANT FOOD GUIDELINE RANGES		CROP REMOVAL RATES
N	40.0	90	N	55.0	105	N	0.0	0
P_2O_5	50.0	40	P_2O_5	45.0	33	P_2O_5	70.0	63
K_2O	35.0	48	K_2O	20.0	68	K_2O	125.0	132
MgO	21.5		MgO	10.8		MgO	21.5	
S	3.0		S	3.5		S	5.3	
Zn	0.0		Zn	0.0		Zn	0.0	
Mn	1.5		Mn	2.3		Mn	4.8	
Cu	0.0		Cu	0.0		Cu	0.0	
Fe	0.0		Fe	0.0		Fe	0.0	
B	0.5		B	1.3		B	2.0	
Lime	13200		Lime	13200		Lime	15900	

Lime Guidelines are for 100% Effective Calcium Carbonate (ECC) with a 6" Incorporation Depth.

ACTUAL AND SUGGESTED PERCENT OF TOTAL CEC (BASE SATURATION)								ESTIMATED		
Actual % Hydrogen	Suggested Hydrogen	Actual % Potassium	Suggested Potassium	Actual % Magnesium	Suggested Magnesium	Actual % Calcium	Suggested Calcium	Actual % Sodium	Suggested Sodium	CEC for Your Soil
72.3	0 - 5	2.3	4.1 - 7	7.1	15 - 20	17.4	65 - 75	0.9	0 - 5	16.6

Additional Tests

Sample Number	001
Salinity Boron ppm	0.05
Salinity Calcium meq/L	0.35
Salinity Chloride ppm	12.1
Salinity ECE mmhos/cm	0.13
Salinity Magnesium meq/L	0.31
Salinity Moisture %	58.82
Salinity pH	5.4
Salinity Potassium meq/L	0.20
Salinity SAR	0.85
Salinity Sodium meq/L	0.5



SITE NOTES:

1: DO NOT SCALE THE DRAWINGS. NOTIFY THE DESIGNER OF ANY DISCREPANCIES.
2: CONTOUR LINES ARE APPROXIMATELY AT 1' INTERVALS OR AS NO
3: CONTRACTOR SHALL VERIFY ALL INFORMATION/SITE DATA WITH TI EXISTING CONDITIONS PRIOR TO CONSTRUCTION.
4: ALL CONSTRUCTION SHALL CONFORM TO THE 2007 CALIFORNIA BU CODE (CBC), CALIFORNIA PLUMBING, MECHANICAL and ELECTRICA (CPC, CMC and CEC), AS WELL AS LOCAL ORDINACES AND REQUIRI

Figure 11.1 View of subject property looking east showing proposed grazing area; forest tree-tops visible beyond grass land.

11 Appendix: Photographs

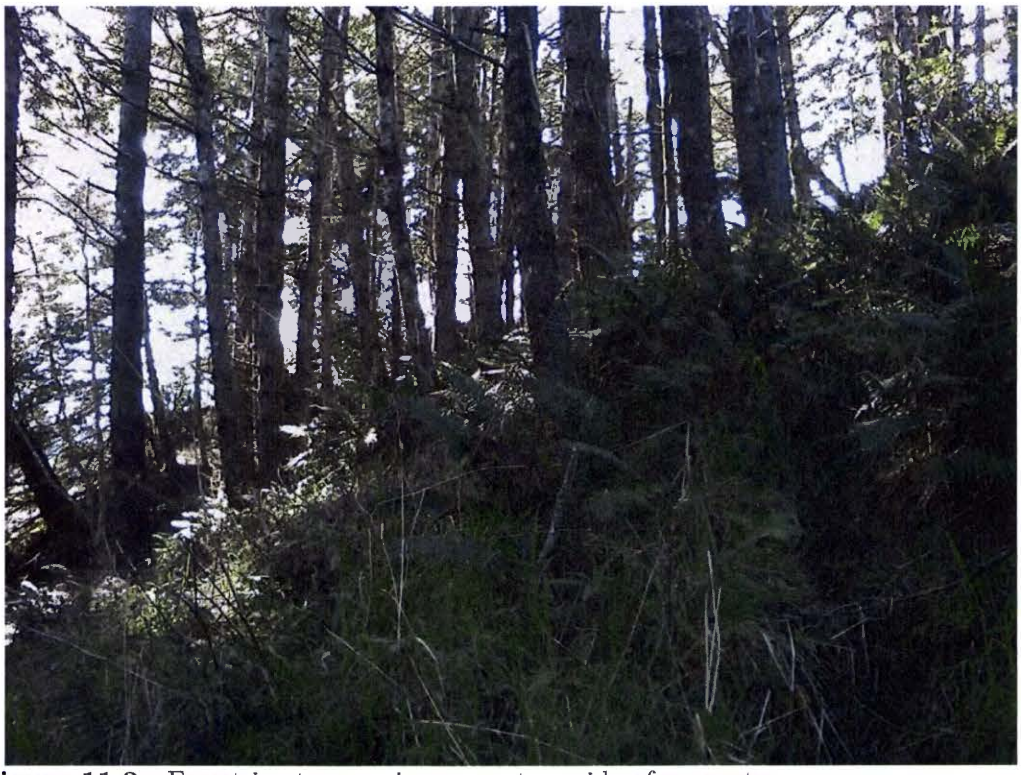


Figure 11.2 Forest in steep ravine on eastern side of property.

Figure 11.3 Cliff face on south side of property.

Figure 11.4 View of north side of subject property; grazed land on north side of fence is cattle range of Mike Biaggi; ungrazed area is subject property.

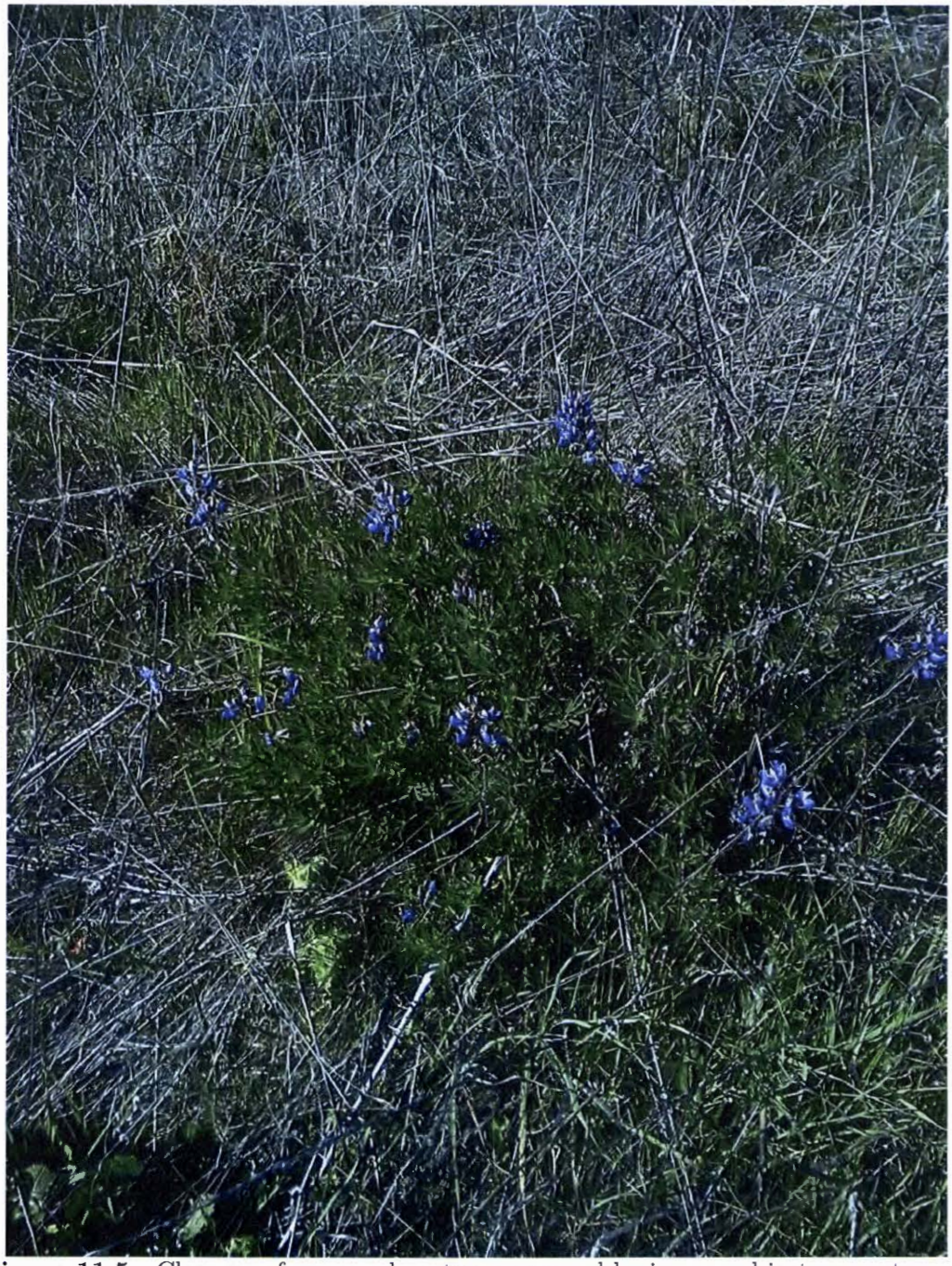


Figure 11.5 Close up of ungrazed pasture grass and lupine on subject property.

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Geotechnical and Geologic Investigation

Proposed Single-Family Residence
2800 North Highway 1
Albion, Mendocino County, California
APN 123-350-06

Prepared for:

Mike Marr
43 Hillside Ave.
Portsmouth, RI 02871

SHN Consulting Engineers & Geologists, Inc.
493 South Main Street
Willits, CA 95490
707/459-4518

June 2008
408020

CONSULTING ENGINEERS & GEOLOGISTS, INC.
493 S. Main Street • Willits, CA 95490 • 707-459-4518 • Fax 707-459-1884 • willitsinfo@shn-engr.com

Reference: 408020

June 12, 2008

Mike Marr
43 Hillside Ave.
Portsmouth, RI 02871

Subject: **Proposed Single Family Residence; 2800 North Highway 1, Albion, Mendocino County, California; APN 123-350-06**

Dear Mr. Marr:

The enclosed report documents the results of our investigations for the proposed project. In the report we discuss Geotechnical and Geologic site characteristics and risks, and provide specific recommendations for site preparation, and design and construction of foundation and floor slab systems, etc.

We hope that this report presents the information that is needed at this time. This report concludes our work on the project in accordance with our current agreement. If you have any questions, please call me at 707/459-4518.

Sincerely,

SHN Consulting Engineers & Geologists, Inc.

Chandler H. Koehn, P.E.
Senior Engineer

CHK:alh

Enclosure: report

REGISTERED PROFESSIONAL ENGINEER
CHANDLER H. KOEHN
No. C 63119
Exp. 6/30/10
CIVIL
STATE OF CALIFORNIA

Reference: 408020

Geotechnical and Geologic Investigation

Proposed Single Family Residence
2800 North Highway 1
Albion, Mendocino County, California
APN 123-350-06

Prepared for:

Mike Marr
43 Hillside Ave.
Portsmouth, RI 02871

Prepared by:

Consulting Engineers & Geologists, Inc.
493 South Main Street
Willits, CA 95490
707/459-4518

June 2008

Table of Contents

List of Illustrations

Abbreviations and Acronyms

ft/yr	feet per year
Km	Kilometers
mm/yr	millimeters per year
pcf	pounds per cubic foot
psf	pound per square foot
tsf	tons per square foot
ASTM	American Society for Testing and Materials
Caltrans	California Department of Transportation
CBC	California Building Code
HA-#	boring-number
ICBO	International Conference of Building Officials
K	erosion factor
MSL	Mean Sea Level
SHN	SHN Consulting Engineers & Geologists, Inc.
IBC	International Building Code
USDA	U.S. Department of Agriculture
USGS	U.S. Geologic Survey

1.0 Introduction

This report documents the results of SHN Consulting Engineers & Geologists, Inc.'s (SHN's) Geotechnical and Geologic investigation of the parcel located at the 2800 North Highway 1,Albion, in Mendocino County, California, as shown on the attached Site Location Map, Figure 1. Our geologic and geotechnical investigations were conducted from April to June of this year. The project site is identified in the County Assessor's Map Book as 123-350-06 bordered by Highway 1 right-of-way to the west, Little and Big Salmon Rivers to the south, and open space to the north and east. The project site history includes probable agricultural use. The subject site is currently undeveloped.

We assumed for this report that a single-family residence and guesthouse with supporting improvements are planned for construction. We assume that buildings will be two-story wood-framed structures with raised structurally supported floors with a detached slab on grade garage. A site plan labeled "Lands of Marr" by I.L. Welty and Associates dated April 2003 has been provided. This site plan was used as a base map for our Plot Plan, Figure 2

This report provides the owner with our findings, conclusions, and recommendations related to geotechnical and geologic aspects of project design and construction. The recommendations contained in this report are subject to the limitations presented herein. Attention is directed to the "Section 8.0: Additional Services" and "Section 9.0: Limitations" of this report.

2.0 Field Investigation and Laboratory Testing

SHN conducted a Geotechnical and Geologic investigation to evaluate subsurface soil conditions, and to provide foundation design and site development criteria for the proposed buildings. Our field investigation was limited to reconnaissance of the project site, excavation and sampling of five exploratory test pits.

The exploratory test pits were advanced to a maximum depth of 9.0 feet below the ground surface. Test pits were excavated with a Case 580 backhoe equipped with a 36-inch wide smooth bucket. Test pits were logged in general accordance with the Unified Soil Classification System by our Geologist. Subsurface exploration locations are shown on the attached Plot Plan, Figure 2. Selected relatively undisturbed drive and disturbed bulk samples were collected, and laboratory tests were conducted. Laboratory testing included in-place density and moisture content, sieve analysis and strength testing. See attached Appendix A for field logs and Appendix B for laboratory testing results.

3.0 Site Conditions

The project area is located approximately ¼ of mile south of Albion on a gently, southwest sloping stream valley wall or bluff-top. The bluff top is composed of an uplifted marine terrace that is bound to the south by the left bank of the Little - Big Salmon Rivers and to the west by Highway 1(Figure 1). The southerly boundary of the project area abuts the crown of a southwest facing cliff that parallels the north bank of the River.

Slope gradients on the face of the bluff range from 50% to near vertical, with the steeper areas affiliated with resistant bedrock outcrops. The bluff has an access road cut across the lower benches. Recent and historic ground movement is evident along portions of the bluff edge as well

as on the surfaces of the bluff slope leading down to the Little and Big Salmon Rivers. Several depressions were observed along the southwest edge of the bluff as shown on the Plot Plan, Figure 2.

Vegetation at the site consists mainly of grasses and forbs covering the open sites and several stands of trees to the east, with dense brush extending down the face.

Elevations in the project area range from 140 feet above Mean Sea Level (MSL) at the bluff edge to about 20 feet MSL along the southern margin of the project area. The upper rim of the bluff is situated between 400 feet (slope distance) and 500 feet upslope of the back edge of the water at the foot of the steep hillside.

Our field reconnaissance was conducted on April 17, 2008. Little or no grading has been detected on the site except for utility services. Temporary wood framing for proposed building limits and a well pipe were observed.

3.1 Subsurface Soil

Specific descriptions of site soils encountered by the subsurface explorations are presented on the attached field logs in Appendix A. In general, surficial soils at the site are composed of moist, soft, black hummus topsoil. Depths to marine deposits encountered in subsurface exploration generally occurred at 1.5 to 3.5 feet below existing grade and consisted of moist, loose to weak, reddish brown to yellowish brown fine sand to sandstone with trace silt and clay. The near surface soils appear very low in expansion potential (tendency for soil volume change with changes in moisture content) based on laboratory testing and soil classification.

3.2 Groundwater and Soil Erosion

No groundwater was encountered in the subsurface exploration. Note that the subsurface investigation was conducted at the end of the spring/summer dry season. Water levels at periods of the year can be expected to fluctuate in response to seasons, storm events, and other factors, and may become significantly higher than observed.

The susceptibility of a soil to sheet and rill or gully is rated by an erosion factor (K) and is one of six factors used in the Universal Soil Loss Equation (USLE) to estimate a rate of erosion in tons per acre per year. The factors are based primarily on soil structure, percentage of soil type and up to 4% of organic matter, and permeability. K factor values can range from 0.05 to 0.43 with a higher value indicating a greater risk of sheet and rill erosion. For most of the site, an erosion factor K is identified as 0.24 (USDA, June 2001).

4.0 Geologic Conditions

4.1 Geologic Setting

Jennings and Strand (1960) have mapped the site as underlain by Pleistocene age marine terrace deposits. Geologic mapping on the same surface but immediately east of the site also identifies the surface as a Pleistocene marine terrace (Manson, 1984). A typical marine terrace sequence consists of an abrasion platform carved into bedrock, covered by up to 30 feet of terrace cover sediments. These terrace cover sediments consist of coarse sands and gravel near the base, fining upward into

silty sands and sandy silts. Marine terraces are often topped by 2-3 feet of dark brown silt with fine sand, referred to as the eolian cap. This cap is believed to consist of wind-blown sediment blown off the exposed continental shelf during sea level low stands.

According to published geologic maps, the terrace deposits cap Cretaceous to Tertiary age Coastal belt of the Franciscan Complex bedrock (Manson, 1984). The Franciscan Complex is a regional bedrock unit that is composed of three broad belts: the Eastern, Central, and Coastal belts. These belts represent terranes--discrete fault-bounded masses of highly deformed oceanic crust that have been welded to the western margin of the North American plate during the subduction process over the past 140 million years.

The Coastal belt is the youngest of the three belts and has been subdivided into four tectono-stratigraphic terranes based on the age, lithology, or metamorphic character of the particular rocks: Yager, Coastal, King Range, and False Cape (Aalto and others, 1995; McLaughlin and others 1997). It is our understanding that the "Coastal terrane," the largest and most extensive of this series of terranes underlies the project area. The Coastal terrane has been interpreted as an accretionary complex composed of trench and lower continental slope deposits (Clarke, 1992). This terrane is composed principally of graywacke sandstone, greenstone, and argillite. In addition, it includes exotic blocks of basaltic intrusive, limestone, and glaucophane schist. Sediments associated with the Coastal terrane are often more deformed than those identified as parts of the Yager, the King Range, or the False Cape terranes. Typically, this material is competent (hard), moderately- to highly-jointed, and can be highly sheared locally. The relative stability of slopes underlain by Franciscan sedimentary bedrock is often influenced by the abundance of mudstone--which is more susceptible to surficial weathering processes--and the frequency and orientation of joints and/or shears.

4.2 Seismic Setting

Coastal northern California is seismically active and susceptible to strong earthquake shaking. There are six distinct sources of damaging earthquakes in Albion region:

1. **The San Andreas Fault Zone** is a predominantly right lateral strike-slip system that accommodates movement between two crustal plates, the Pacific to the west and the North American to the east. A trace of the San Andreas Fault is located approximately 3 miles west (off the coast) of the project site. Historic evidence (the 1906 San Francisco Earthquake) demonstrated that the San Andreas fault system is capable of generating large to very large magnitude earthquakes (magnitude 7.9+). Such earthquakes are likely to produce very strong levels of seismic shaking at the project site similar to those noted during the 1906 earthquake. In 1906 most of brick buildings in Fort Bragg, ~ 15 miles north of the project site, were destroyed, while many of the wood-framed structures in town were shifted off their foundations.
2. **The Maacama Fault** is a right-lateral strike-slip fault within the San Andreas fault system. This roughly N30W trending fault is located approximately 25 miles east of the project area and is considered active because of its youthful geomorphic expression, paleoseismic evidence, its association with a linear trend of microseismicity (small earthquakes), and distinct evidence of aseismic surface creep. The Maacama fault, however, has not produced a significant historic earthquake, and its seismic hazard potential is poorly understood. The largest historic earthquake in the vicinity of the Maacama fault was a magnitude 4.8 earthquake that occurred near Willits in November 1977; the epicenter was determined to be about 9 miles east of the Maacama fault. Modeling of geodetic data suggests the

Maacama fault accommodates approximately 14 millimeters per year (mm/yr) of strike-slip motion (Freymueller and others, 1999), while comparison to the Hayward and Rodgers Creek faults suggests about 9 mm/yr (USGS Working Group, 1996). Freymueller and others (1999) suggest that the Maacama fault poses a significant seismic hazard because it has a high slip rate, and has accumulated a sufficient slip deficit to generate a magnitude 7 earthquake.

3. **The Mendocino Fracture Zone** is a high angle, east-west trending fault representing the plate boundary between the Gorda and Pacific plates. This fault zone extends westward from the Mendocino Triple Junction near Petrolia, approximately 20 miles north of Shelter Cove.

4. **The Mendocino Triple Junction** produces infrequent moderate magnitude earthquakes . These events are generally shallow, onshore events in the magnitude 5 to 6 range.

5. **The Cascadia Subduction Zone** is the most significant potential seismic source in the region, capable of producing very large earthquakes up to magnitude 9.5. Such earthquakes could affect the entire Pacific Northwest, from Cape Mendocino to British Columbia. Several feet of uplift and subsidence may occur in coastal areas as a result of very strong, long duration seismic events. In addition, the intense ground shaking affiliated with these events will likely cause large landslides. Earthquakes with a magnitude of 8 to 9 are expected to occur about every 300-500 years, with the last great event likely occurring in the year 1700. On April 25, 1992, a magnitude 7.1 earthquake occurred near Petrolia; this earthquake was the first major documented subduction zone event, and was proceeded by two strong aftershocks in the magnitude 6 range.

No known faults have been mapped passing through the project site, nor was any evidence of active faulting observed in the field. The site is not located within an Alquist-Priolo fault zone as defined by the State of California (Hart and Bryant, 1997).

5.0 Evaluation of Potential Geologic Hazards

5.1 Stream Valley Wall Stability

The steep-faced valley wall situated below the project area is located along the inner edge of a broad, northward migrating meander of the Big and Little Salmon Rivers. This meander is positioned near the back edge of Whitesboro Cove. The steepest part of the valley wall slope extends from the top of the terrace to another smaller terrace approximately 50 feet below (Figure 3). This terrace has a relatively gentle slope of roughly 20%, with a dirt road built along the downward edge of the terrace. Below the road, the slope steepens to over 30%, becoming gentler toward the toe of the slope. A 50- to 100-foot wide, roughly lens-shape point bar/beach is situated at the toe of the slope.

Seven aerial photographs dated between 1963 and 2005 were reviewed to determine historic valley wall retreat rates in the vicinity of study area. Two measurements were made from a fence line at the top of the slope to the edge of the upper and lower sections of a dirt road visible on all photograph years. An increase in distance between these points would indicate the top of the valley wall has retreated between the photograph years measured. The edges of the river and beach were not used in the measurements as these features vary with tide and season. We anticipate that change on the order of 5 feet or more would be detected on the photographs.

Comparison of aerial photographs taken between 1963 and 2005 displayed no discernable change in the location or configuration of the bluff edge situated above the point bar/beach. Less than two feet of retreat was measured at both measurement points; this small amount is considered insignificant due to the error inherent in measuring distances from aerial photographs. Due to the resistant character of the Coastal belt bedrock, and the general lack of surf impact at the toe of the slope, it appears that the rate of retreat along this stretch is relatively low and insignificant on the aerial photographs.

Although evidence suggests that coastal bluff retreat rates along the eastern section of the bluff in the project area has been relatively low over the period covered by historic records, we cannot preclude the possibility of unpredictable events, which could result in accelerated retreat of the valley wall slope. In our opinion, the probability of such events is low but should not be ignored. Though the amount of retreat measured was insignificantly small, we have applied the 2-foot retreat over the 42-year period to this section of river valley wall. From these measurements, we calculated a long-term average rate of bluff retreat of 0.05 feet per year (ft/yr), or about half an inch. This long-term average rate of bluff retreat is based upon the precedence that the hillslope processes affecting this study area, recently and in the near future, will be similar to those that occurred in recent geologic times.

5.2 Top of Slope Setbacks and Recommendations

If the long-term average rate of retreat to the design life (75 years) is applied to the project site, about 4 feet of retreat would occur. However, given the site's proximity to the San Andreas fault, there is a potential it will experience strong seismic shaking during the lifetime of the structure. Such shaking could lead to coseismic landsliding along slopes that have not experienced recent mass wasting. The earliest aerial photograph, taken in 1963, was nearly 60 years after the 1906 earthquake. Evidence of coseismic slope failure in the site vicinity from the 1906 event could not be discerned in the aerial photographs. In order to assign an appropriate setback, we have included geomorphic observations from the field in our assessment. A possible older scarp feature was observed south west of the proposed residence, and the head of a small gully ("erosion feature") exists immediately south of the project (Figure 2). Given the relatively low rates of erosion observed, and the proximity of the San Andreas fault, we recommend a setback of 40 feet from both the potential scarp and bluff edge.

5.3 International Building Code Seismic Design Parameters

The maximum considered earthquake ground motion for Site Class B is summarized on maps prepared by the U.S. Geological Survey, presented within the 2006 IBC and 2007 CBC. The subject site is located at a north latitude of 39.2170° and a west longitude of 123.35.38°. Based on our subsurface explorations and research, the subject site soils can be classified as Site Class C, very

dense soil and soft rock. Correction of the mapped acceleration Site Class B are summarized in Table 1 below.

Table 1 Mapped Acceleration Parameters			
Period (seconds)	Mapped Spectral Acceleration (g) for Site Class B	Site Coefficient Site Class C	Max Considered Spectral Response Accelration (g)
0.2	1.56 (Ss)	1.0 (Fa)	1.568 (SMs)
1	0.793 (S1)	1.3 (Fv)	1.031 (SM1)

5.4 Liquefaction

Liquefaction is described as the sudden loss of soil shear strength due to a rapid increase of soil pore water pressures caused by cyclic loading from a seismic event. In simple terms, it means that a liquefied soil acts more like a fluid than a solid when shaken during an earthquake. In order for liquefaction to occur, the following are needed:

- granular soils (sand, silty sand, sandy silt, and some gravels);
- a high groundwater table; and
- a low density of the granular soils (usually associated with young geologic age).

The adverse effects of liquefaction include local and regional ground settlement, ground cracking and expulsion of water and sand, the partial or complete loss of bearing and confining forces used to support loads, amplification of seismic shaking, and lateral spreading. Lateral spreading is defined as lateral earth movement of liquefied soils, or competent strata riding on a liquefied soil layer, downslope toward an unsupported slope face, such as a creek bank, or an inclined slope face. In general, lateral spreading has been observed on low to moderate gradient slopes, but has been noted on slopes inclined as flat as one degree.

Geologic materials most susceptible to liquefaction are geologically recent (late Holocene age) sand- and silt-rich deposits, located adjacent to streams, rivers, bays, or ocean shorelines. It should be noted that these "most susceptible" conditions do not exist at the subject site. Susceptibility to liquefaction decreases with increasing geologic age. For example, Table 2 in Youd and Perkins (1978) estimated liquefaction susceptibility of Holocene marine terraces as low, and Pleistocene marine terraces as very low. The subject site is situated on a late Pleistocene age marine terrace.

Liquefaction has been documented on numerous occasions in the greater Fort Bragg area following historic moderate to large magnitude earthquakes. Specific accounts of historic ground failures following the 1906 San Andreas fault earthquake are presented in reports prepared by Lawson and others (1908) and Youd and Hoose (1978). Review of these reports, indicates that liquefaction events in the area were generally confined to recent alluvial sediments along the Noyo River was common on the uplifted marine terraces occupied by Fort Bragg or this project.

Subsurface investigations in the project area and other nearby sites indicate the presence of apparently liquefiable materials. Poorly-indurated, clean or silty sands, below the seasonal water table, we observed in bedrock outcrops exposed in the bluff faces. However, from a geologic standpoint, these materials are of such age and have experience so many cycles of ground

movement that there is a very low probability that they will liquefy. The general absence of historic evidence of liquefaction on the "Caspar Point" terrace during strong earthquakes in 1853, 1865, 1906, 1922, 1927, 1932, 1954, 1980, and 1992 support the qualitative geologic interpretation that liquefaction potential at the site is low.

In summary, the risk of liquefaction is considered negligible for earthquakes of small to moderate magnitude. In relatively rare, great earthquakes, for example those with a moment magnitude of 7.5 or greater, there may be low to moderate risk of liquefaction. Risk of damage to the proposed structures from these soil behaviors, should they occur, is considered likely to be within building code criteria for upper bound (rare, great) earthquakes.

6.0 Geotechnical Conclusions and Discussion

Based on the results of our field and laboratory investigations, it is our opinion that the project site can be developed as proposed, provided that our recommendations are followed.

The primary geotechnical site considerations are bluff stability, foundation to bluff setback, and unsupportive near surface soils. Consequently, recommendations presented below include provisions for footings and grading recommendations. As is all of Mendocino County, the site is subject to strong ground motion from seismic sources.

In this report, recommendations are provided to remove and replace near surface soils beneath planned improvements to create supportive foundation soils. Based on our subsurface work, the proposed building development area has 1 to 3 feet of unsupportive soils. The laboratory testing results show most of the near surface soils (excluding topsoils) are suitable for use as engineered or structural fill. See "Section 7.1: Site Preparation and Grading" of this report for fill placement and compaction recommendations.

Building foundations that are founded in non-uniform soils can experience differential settlement due to different soil strength properties. We recommend foundations be embedded in relatively uniform soils such as entirely supportive native soils or entirely engineered fill. Foundations embedded entirely in native supportive soils will likely result in foundations extending to depths of 18- to 48-inches below existing grade based on our subsurface exploration and depending on planned site grades. Alternatively, remove the upper 18- to 40-inches of topsoil and replace with engineered fill beneath the areas of improvement and for five feet beyond the perimeter, creating a relative uniform competent and supportive underlying soil. Be advised that on-site grading should be observed and tested by a qualified Soils Engineer. See "Section 7.1: Site Preparation and Grading" of this report for fill placement and compaction recommendations.

Clayey soils strata were not encountered in the subsurface explorations. Therefore the risk of distress to improvements from near surface expansive soils is considered low.

Recommendations for a capillary break beneath the slab-on-grade floors, positive surface drainage away from the building perimeter in all directions, retaining wall drainage/water proofing, and for the floor slab to be slightly higher than surrounding exterior grade are provided to avoid post-construction damp floor slab conditions.

Co-seismic compaction of poorly consolidated, sandy, relatively cohesionless soils or unconsolidated fill can occur above or below groundwater, and is characterized by soil

densification resulting from dynamic loading of relatively loose, non-cohesive soil materials. That is, shaking or vibration can densify loose granular soils, resulting in settlement of the ground surface. In our opinion, seismic compaction would typically be negligible due to the nature of the site soils in all but major earthquakes. In relative rare, strong, prolonged earthquakes, it may result in a lowering of finished grade.

The amount of building settlement depends on the magnitude, area, and duration of the loading, and on the compressibility of the underlying deposits. The rate of settlement is correlated to soil type and permeability, and to the degree of soil saturation. Quickly permeable soils, such as sands or gravel with little clay or silt, or materials such as wood waste, will settle relatively quickly. The risk of significant post-construction settlement will be mitigated to a low level if the recommended site preparation is completed. Due to the variability of soils deposits and the inherent limitations of current engineering and construction practices, some post-construction vertical settlement may occur. We estimate that with the project constructed in accordance with the following recommendations, total post construction settlement is not likely to exceed one-half inch, and post-construction differential settlement is not likely to exceed one-quarter inch.

7.0 Recommendations

7.1 Site Preparation and Grading

We recommend the following:

1. As appropriate, notify Underground Service Alert (1-800-642-2444) prior to commencing site work, and use this location service and other methods to avoid injury or risk to life from underground and overhead utilities, and to avoid damaging them.
2. Strip all existing improvements, cultural debris, vegetation, root systems, topsoil and old fill (if encountered) from areas to receive structural fill or improvements, and for five feet outside.
3. Conduct a geotechnical engineering review of exposed subgrade soils exposed by site grading to identify and mitigate any unsupportive soils zones. The soils engineer will recommend that remaining unsuitable soils, such as overly weak, compressible, or disturbed soils, be additionally stripped. The exposed subgrade should be scarified and moisture condition and proofrolled using a relatively heavy vehicle, such as a heavy drum compactor, a loader with a full bucket, or equivalent. The proofrolling should be accomplished with the soil damp or moist (not wet or dry), and a firm, non-yielding surface should be evident during the proofrolling. If a yielding surface is observed (pumping, weaving under wheel loads), additionally excavate the yielding area, and replace the overexcavated material with Caltrans specification Class 2 baserock, in a manner that will result in a stable subgrade surface under the proofrolling, following the overexcavation and replacement. Prior to placement of structural fill the subgrade should not be allowed to dry and shrink. Maintain subgrade soils in a moist condition by covering with plastic to avoid saturation from rain or immediate placement of engineered fill as recommended below. Do not cover overwet or muddy subgrade soil conditions and avoid grading during wet weather conditions.
4. Structural fill material should consist of relatively non-plastic (Liquid Limit less than 35, Plasticity Index less than 12) material containing no organic material or debris, and no

individual particles over 8 inches across. Bulk samples taken from our subsurface work indicate near surface site soils (excluding topsoils) are suitable for structural fill.

5. Structural or engineered fill should be placed to design grades and compacted to a minimum of 90% of the maximum relative dry density as determined by the American Society for Testing and Materials (ASTM) D1557-02 test method (see attached Summary of Laboratory Tables, Figure No. 4). Place fill in lifts not exceeding 6 inches in loose thickness, and thoroughly compact each lift into place until further consolidation ceases. Thoroughly trackwalk and compact finished fill surface. If imported material is too dry, dampen it to a uniform moist condition prior to placement as fill. Do not overwet it.
6. Planned fill or cut slopes are not known at this time but it appears unlikely that significant grading will occur due to the site topography.

7.2 Foundations

Following site preparation and specific foundation recommendations, foundations may be constructed. Our recommendations for Foundations are as follows:

1. Foundations should be setback between 40 feet from existing site bluff top (see Section 5.2: Bluff Edge Setbacks and Recommendations). Foundations should be no less than 12 and 15 inches wide for one and two-story construction and reinforced with a minimum of 2 - # 4 bars, one top and bottom. In addition to CBC/IBC minimums, a conventional, shallow foundation system is recommended below. All foundation elements should be strongly reinforced and structurally integrated to act as a rigid frame.
2. All foundation excavations should penetrate into structural or competent native soils at least 12 inches for single-story residential construction or at least 18 inches for two-story residential construction. Shallow conventional foundations may be designed so they do not exceed an allowable bearing capacity of 2,000 pounds per square foot (psf) for dead plus live loads, which may be increased by one-third to account for the short-term effects of wind and/or seismic loading. Footing excavations should be straight and bottoms should be clean and free of "slough" (loose) material.
3. Embedment depth should be determined starting at the surface of competent, undisturbed, native soils, or the surface of structural fill placed as recommended above. The provided bearing values are applicable to both competent, undisturbed, native soils, and structural fill placed as recommended.
4. The bearing pressure values may be increased for increases in footing depth as provided in the current edition of the IBC provided foundations are resting on uniform soils as stated in "Section 6.0: Geotechnical Conclusions and Discussion" of this report.
5. Frictional resistance may be calculated in conjunction with an allowable lateral passive pressure represented by an equivalent fluid weighing 250 pounds per cubic foot (pcf) for short-term loadings, such as lateral foundation resistance in response to wind or earthquake loadings. A friction coefficient of 0.35 may be used for the footing/soil contact. Lateral passive pressure can be calculated where footings bear laterally against neat competent undisturbed native subsoils, or structural fill. The lateral pressure values may be increased for increases in depth and width as provided in the current edition of the IBC.
6. The ground surface around the structure perimeter should be sloped away, or other design measures implemented to provide positive surface water drainage away from perimeter foundation areas.

7. If the project includes slab-on-grade construction where the finished slab grade is one-half foot or less above exterior grade elevation, or if the project includes depressed crawl spaces resulting in crawl space grade below exterior grade elevation, subdrains may be desirable to prevent excess moisture problems, and the specific building plans should be reviewed, and subdrainage recommendations provided if appropriate (see Section 7.3.5 below).
8. If decks are planned, they should be cantilevered out from or braced back to the residence structure. Alternatively, if separate deck foundations are to be embedded into the slope, the deck design should consider the possibility of long-term downhill settlement or creep of these foundations.

7.3 Slabs-on-Grade

Following site preparation and grading as recommended, slabs-on-grade may be constructed. Our recommendations for slabs-on-grade are as follows:

1. It has been common practice to cover the membrane with a few inches of sand, to protect the membrane during construction, and to aid in concrete curing. However, some designers consider the sand layer to be a potential source of moisture that can adversely affect the slab, either from the water present in the sand during construction, or from surface water or groundwater gaining access to the sand layer above the membrane. We understand the American Concrete Institute has produced recommendations or guidelines with respect to this issue. Whether or not a sand layer is placed above the membrane, the membrane should be protected against tearing or puncture during construction.
2. Concrete slabs can become damp from capillary water migration. As a precaution to minimize transmission of soil moisture up through floor slabs in habitable areas, or other areas where damp slabs should be avoided, we recommend that the slabs be underlain by a polyethylene vapor reduction membrane at least six mils in thickness. This membrane should overlie a capillary break consisting of a 4-inch layer of No. 4 U.S. Sieve (0.187 inch) minimum, up to 1 inch maximum, drain rock, or Class 1 Type A permeable material per Caltrans Standard Specifications 68-1.025. A thin layer of clean sand should be placed over the membrane to protect it during concrete placement. (The capillary break provides a layer with relatively large, intergranular, void spaces, which inhibits the capillary rise of ground moisture.)
3. Highly plastic soils should not underlie slabs, and should be removed and replaced as recommended in the "Section 7.1: Site Preparation and Grading" above. Subgrade soils should be quickly covered by structural fill, intermittently sprinkled, or covered temporarily with plastic, in order to maintain their moisture content until the overlying fill is placed. They also should not be allowed to become overly wet (saturated). The purpose of this recommendation is to avoid placing slabs on overly dried, or overly wet, silty or clayey subgrade soils. If covered when overly dried, they may subsequently become moistened by capillary groundwater, and swell slightly. Slab areas are particularly vulnerable to distress from underlying swelling soils. Similarly, if over-wetted, they may shrink upon returning to normal in-place moisture contents.
4. Floor slabs should be designed to be relatively strong, to be resistant to cracking from bending or differential settlement. We suggest a minimum slab thickness of 5 inches with a minimum of No. 4 rebar at 18 inches in both directions, at mid-height of the slab, for example. Reinforcement bars should be placed on chairs so that they are at the mid-point of

the slab. Additional footing and slab reinforcement may be required by the Structural Engineer or Architect.

5. Where floor slabs lie at or below adjacent finished exterior ground elevations, the capillary break material beneath the slab should be thickened to 8 inches in minimum thickness, and this layer should be compacted with a walk-behind vibratory plate compactor. The 8-inch minimum subdrainage/capillary break layer should be drained by 3- or 4-inch diameter perforated drainpipe. The drainpipe may be placed level in the bottom of the layer of drainage material, or placed level in trenches below the drainage layer, with trench backfill comprised of permeable material extending up and hydraulically connected with the subdrainage layer above. The perforated drainpipes should be spaced not exceeding 10 feet on centers if the drain piping is placed in the drainage layer, or 15 feet on centers if placed in shallow trenches just below the drainage layer. The drainage piping should be gravity drained to daylight through collector piping. Outside the building perimeter, the tightline drainpipe should be used to drain any collected water to daylight or into a storm drain system that should slope at least ¼ inch per foot. Subdrain surface outlets should be screened or otherwise protected to prevent the entry of animals.

7.4 Corrosion

USDA Web Soil Survey indicates a high risk of corrosion for uncoated steel at the subject site. Furthermore, the survey indicates a moderate risk of corrosion for concrete due to soil induced chemical or electrochemical action. Typical construction methods for coastal residential structures such as type II Portland cement should be applied at the subject site.

7.5 Drainage and Erosion

To mitigate erosion and reduce bluff instability potential, we recommend the following measures:

1. Design finished grade to allow sheet runoff rather than concentrated runoff.
2. Provide structures with roof gutters and downspouts and tie them into the storm drain system where possible.
3. Where concentrated runoff will occur, minimize its velocity by controlling slopes, and protect the channel and discharge area by dissipating flow energy, using erosion resistant surfacing as appropriate.
4. Protect slopes and bluffs from concentrated runoff or heavy sheet runoff by appropriate drainage control facilities. Do not allow concentrated run off onto the bluff slope.
5. Perform site work and vegetation establishment during seasons not subject to repeated or prolonged rainfall.
6. Provide periodic maintenance of erosion control measures.
7. No landscaping should be allowed against the structure unless moisture accumulation is considered. Moisture accumulation or watering adjacent to foundations can result in deterioration of wood/stucco.

For additional information regarding drainage and erosion control see the Erosion and Sediment Control Field Manual from the California Regional Water Quality Control Board.

8.0 Additional Services

During the design phase, it is important that communications between the design team and SHN be maintained to optimize compatibility between the design and soil and groundwater conditions.

We have assumed, in preparing our recommendations, that we will be retained to review those portions of project that pertain to earthwork and foundations. The purpose of this review is to confirm that our earthwork and foundation recommendations have been properly interpreted and implemented during design.

In order to assess construction conformance with the intent of our recommendations, it is important that a representative of our firm:

- monitor adequate subgrade preparation and grading of structural fill, and
- monitor foundation excavations.

This construction phase monitoring is important because it provides the owner and SHN the opportunity to verify anticipated site conditions, and recommend appropriate changes in design or construction procedures if site conditions encountered during construction vary from those described in this report. It also allows SHN to recommend appropriate changes in design or construction procedures if construction methods adversely affect the competence of on-site soils to support the structural improvements.

Plan review and construction phase monitoring are not considered part of our preliminary soils investigation and, therefore would require an additional service agreement and fees.

9.0 Limitations

The analyses, conclusions, and recommendations contained in this report are based on site conditions that we observed at the time of our investigation, data from our subsurface explorations and laboratory tests, our current understanding of proposed project elements, and on our experience with similar projects in similar geotechnical environments. We have assumed that the information obtained from our limited subsurface explorations is representative of subsurface conditions throughout the site. In order to confirm this assumption, a representative of our firm must observe and evaluate actual soil conditions encountered during project construction operations.

Subsurface conditions may differ from those disclosed by our limited investigations. If differing conditions are encountered during construction, our firm should be notified immediately so that we can reevaluate the applicability of our conclusions and recommendations. Such an evaluation may result in reconsidered and/or amended recommendations. If the scope of the proposed construction, including the proposed loads, grades, or structural locations, changes from that described in this report, our recommendations should also be reviewed.

Our firm has prepared this report for your exclusive use on this project in substantial accordance with the generally accepted geotechnical engineering practice as it exists in the site area at the time of our study, including time and budget constraints. No warranty is expressed or implied. The recommendations provided in this report are based on the assumption that an adequate program

of tests and observations will be conducted by our firm during the construction phase in order to evaluate compliance with our recommendations.

If there is a substantial lapse of time between the submission of our report and the start of work at the site, or if conditions have changed due to natural causes or construction operations at or adjacent to the site, we should review our report to determine the applicability of the conclusions and recommendations considering the changed conditions and time lapse. This report is applicable only to the project and site studied.

The field and laboratory work was conducted to investigate the site characteristics specifically addressed by this report. Assumptions about other site characteristics, such as hazardous materials contamination, or environmentally sensitive or culturally significant areas, should not be made from this report.

10.0 References Cited

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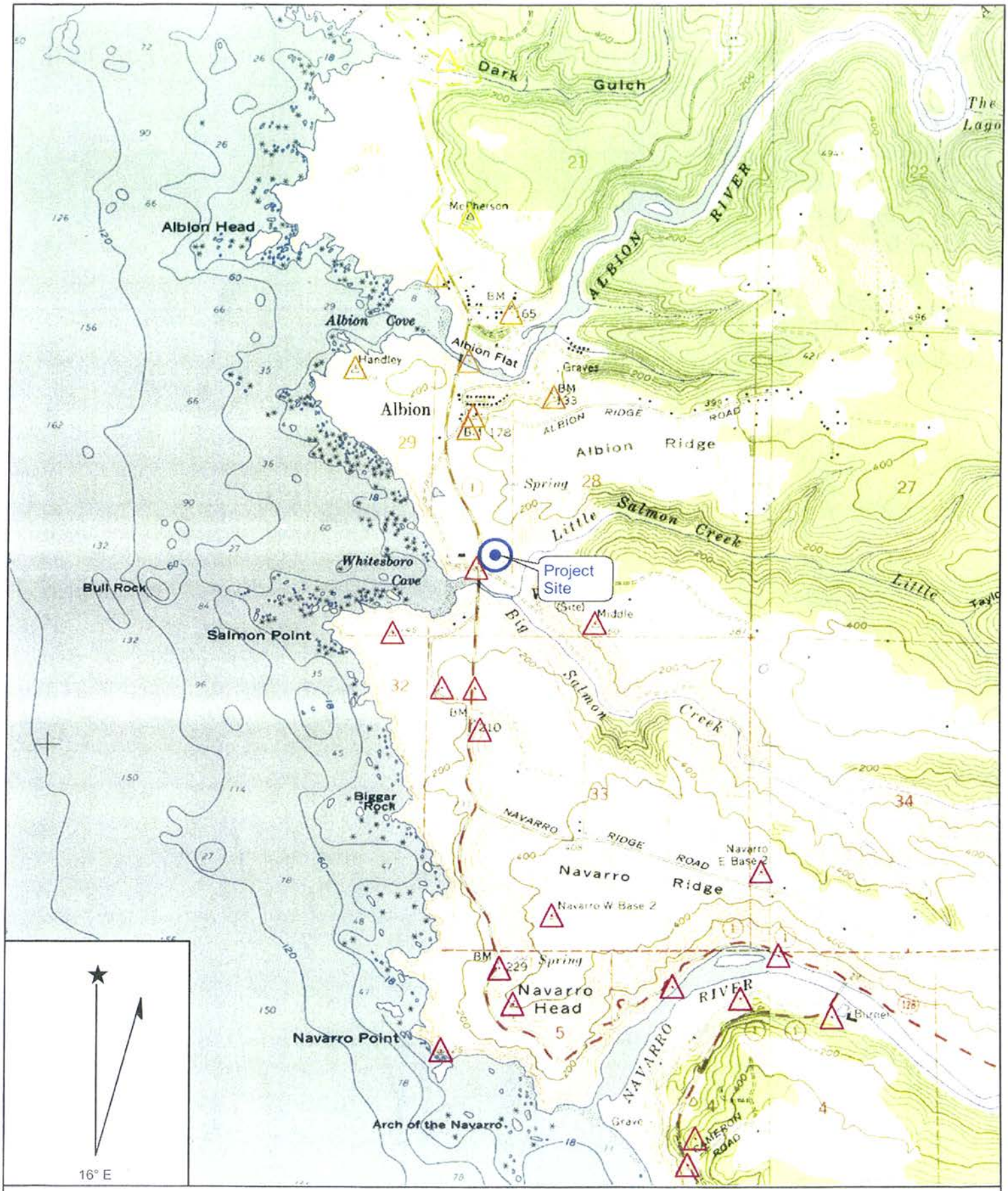
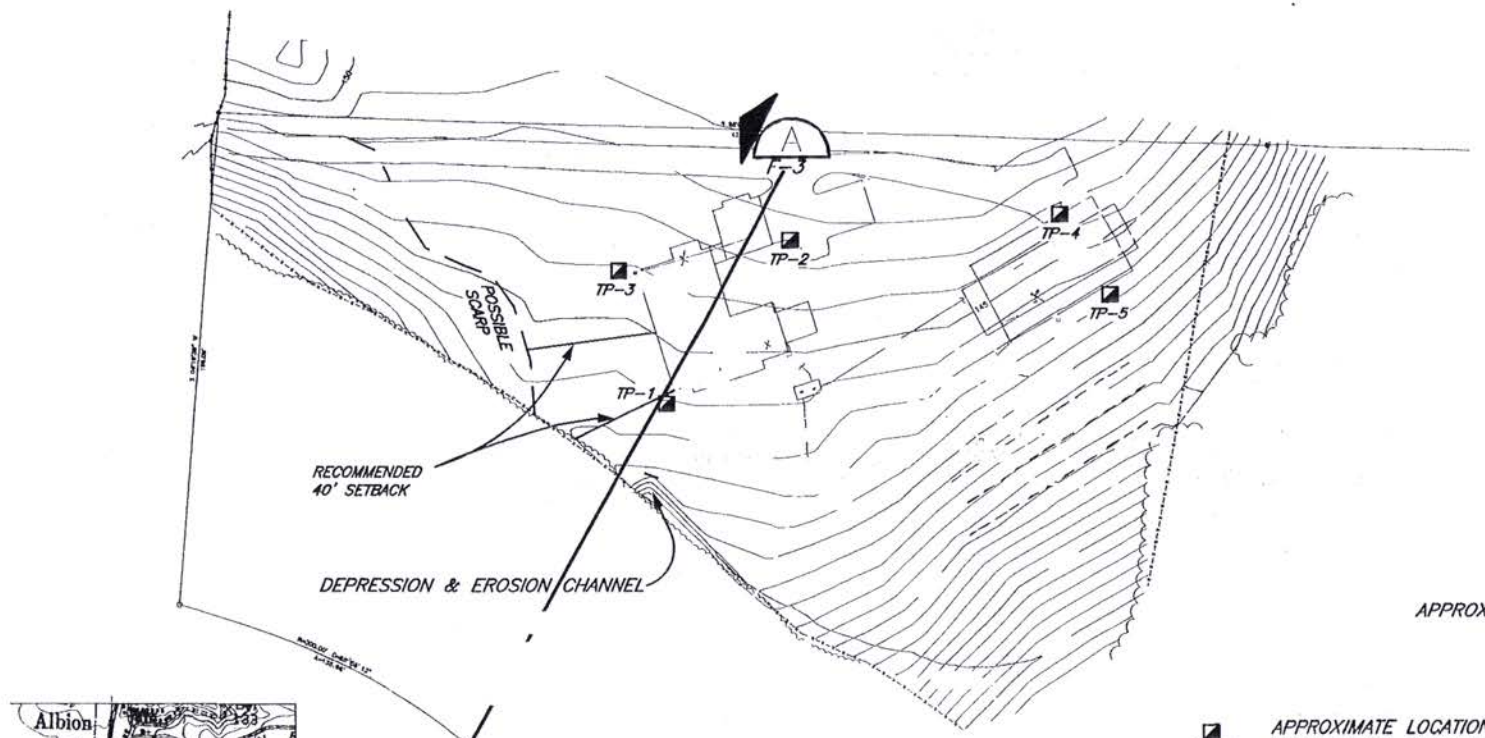
Youd, T.L., and S.N. Hoose. (1978). *Geological Survey Professional Paper Number 993: Historic Ground Failures in Northern California Triggered by Earthquakes.* Washington, D.C.: United States Government Printing Office.



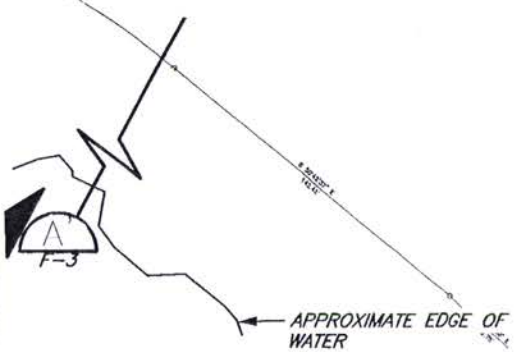
Name: ALBION
Date: 6/13/2008
Scale: 1 inch equals 2000 feet

Location: 039° 12' 54.57" N 123° 45' 55.17" W
Caption: Site Location Map
Project No. 408020
June 2008 - Figure 1



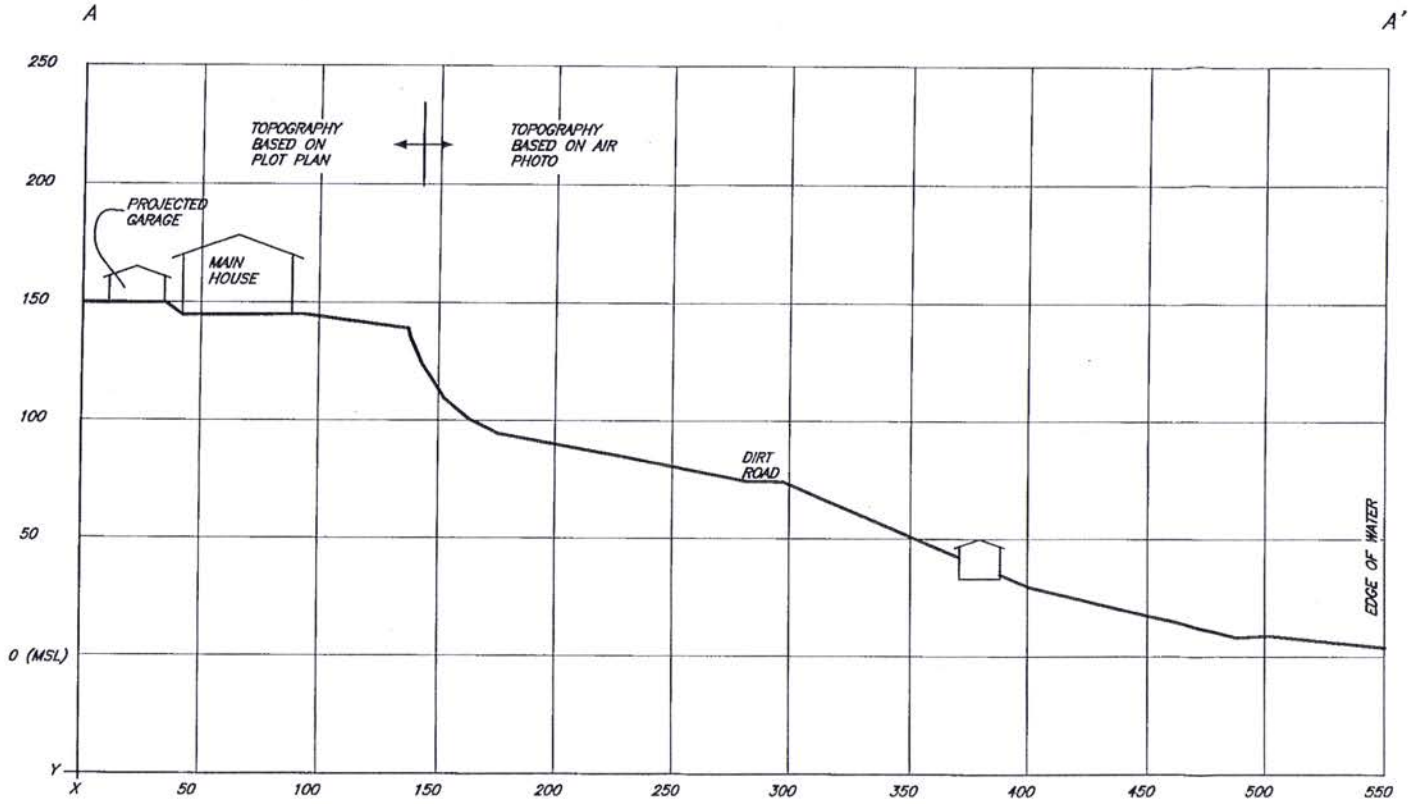
APPROXIMATE SCALE; 1"=40'

TP-1 APPROXIMATE LOCATION OF SUBSURFACE EXPLORATION TEST PIT BY SHN



SHN Consulting Engineers & Geologists, Inc.	SHN Consulting Engineers AutoCAD Standards Eureka, Redding, Coos Bay, Willits	MARR RESIDENCE PLOT PLAN SHN 408020	
	JUNE 2008	408020-PLAT-2	Figure 2

O:\2008\408020 MARR\ DWG, SAVED: 6/24/2008 2:53 PM LBUTZBEE, PLOTTED: 6/27/2008 1:44 PM, LARRY BUTZBEE



SITE SECTION

SCALE; 1"=50' (V)
1"=50' (H)

SHN Consulting Engineers & Geologists, Inc.	SHN Consulting Engineers AutoCAD Standards Eureka, Redding, Coos Bay, Willits	MARR RESIDENCE PLOT PLAN SHN 408020	
	JUNE 2008	408020-PLAT-2	Figure 3

BOB HARTSTOCK DESIGNER

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

bobhart@mcn.org

TRANSMITTAL

TO: Bob Merrill &Tamara Gedik

DATE: 25 November 2012

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

PROJECT: Marr/Malin residence, 2800 Highway One, Albion

Hi Bob/Tamara.....

Enclosed are 12 hard copies of support letters towards our project.

ATTACHED

Thanks..

BOB HARTSTOCK, Designer
cc: Marr/Malin

EXHIBIT NO. 17
APPLICATION NO.
Appeal No. A-1-MEN-09-034 (Marr-Malin)
COMMENT LETTERS SUBMITTED BY APPLICANT (1 of 16)

Tom Sisto
1124 Sterling Gate Drive
San Jose, California 95120
tom_sisto@hotmail.com

California Coastal Commission
North Coast District Office
710 E Street, Suite 200
Eureka, CA 95501-1865

September 10, 2012

Re: Appeal No. A-1-MEN-09-034

Dear Honorable Chair Shallenberger and Commissioners:

This letter of recommendation is in support of approving that Michael Marr and Judy Malin be permitted to move forward with their home building project in Albion, CA. Specifically, I am addressing the character of the applicants and commenting on what I have witnessed in terms of Michael's woodworking business, his personal residence home building projects and Judy's commitment to the community.

I have known Michael for 49 years having grown up together in Massachusetts. In addition to being an extremely honest and trustworthy individual, Michael has always been committed to the environment as a result of being very conscious of the beauty in nature. This can be seen in the style and quality of his woodworking business portfolio at http://www.michaelmarrwoodworks.com. In addition, I can attest to the fact that the personal residences he built in Sea Ranch, CA and Martha's Vineyard, MA were specifically designed to blend into the environmental landscape.

While I have known Judy for a shorter period of time, I've seen that Judy is also a dedicated environmentalist. In addition, Judy has a strong commitment to community and service having built a lifetime career working for the State of Rhode Island as a mental health care professional. Working as a team, I know that Michael and Judy are committed to building a home that not only meets the requirements of the commission, but that also serves to enhance the beauty of the landscape.

Based on my discussions with Michael and Judy, and having reviewed the appeal document, it appears that they have patiently worked through the approval process and have adjusted their project plans on multiple occasions to meet the community zoning requirements. Based on the project site plans and my experience seeing Michael's past work, I am confident that this home will be very favorably received by those living in Albion. More importantly, the town will be very fortunate to have Michael and Judy as new residents and neighbors serving the local community.

For these reasons I strongly urge the commission to approve this project. Thank you for your thoughtful consideration.

Very truly yours,

Signature on File

Tom Sisto

2 of 12

North Coast
SUPPORT A-1-MEN-09-034 Michael Marr & Judith Malin in Albion

November 11, 2012

California Coastal Commission
Mailed & Via FAX (415) 904-5400

Re: **SUPPORT A-1-MEN-09-034 Michael Marr & Judith Malin in Albion**

To Whom It May Concern,

Our Albion and coastal communities need more well thought out responsible homes built like the one proposed by Mike Marr and Judy Malin.

We ***strongly*** support the Marr/Malin proposed single family home and barn project for the following reasons:

1. The project **conforms to the Coastal Act** including but not limited to size, height, color, setback, environmental protection, and visual resource requirements.

2. There are **no other economically viable uses** of the property due to it's location, steep topography and size.

3. Economically **viable agriculture is no longer possible** along the coast in this area due to lack of infrastructure, low producing wells, salt spray, & domestic dogs

4. **Environmentally sensitive habitat can be best protected** through development with set back constraints.

5. Environmental impact is minimal and **appropriate mitigations** have been proposed and accepted.

6. **Lead agency approval:** Mendocino County Coastal Permit Administrator has approve the project with legally required notification and public comment.

7. This project will provide much **needed construction jobs** and be an on going **economic boost** to our community.

The proposed single family home and barn will be a delightful visual reminder of our long past agricultural heritage. As neighbors we are excited to be able to watch this lovely home being built, providing much needed jobs.

Regards,

Carol Smith
3500 North Highway One, Albion
CarolSmith2@gmail.com

3-9-16

KENNEDY
& associates
A CALIFORNIA CORPORATION

Monday, November 26, 2012

TO: California Coastal Commission
Executive Director Charles Lester and Chair Schallenberger

RE: The new home and barn for Mike Marr and Judy Malin

2900 North Highway One, Albion

This project is wonderful! It looks like the barns and farm buildings along the coast highway. The materials seem natural, and the floor plan is very efficient and well thought out. It feels like it fits perfectly on this site.

I'm a native California, born and raised in Gualala for 60+ years. My family (Bettega/Andersen) moved to the Mendocino Coast in 1919 and we have been active in building and contributing to the community ever since. I have been selling real estate in Mendocino and Sonoma counties for almost 30 years. I travel the highway numerous times a day. I have seen properties which blend with the landscape....and properties which contrast the landscape and stand out like a sore thumb.

This project brings good and sensitive design to our community. I look forward to seeing Mike and Judy become a part of this wonderful community through their volunteerism and skills.

Sincerely,

Signature on File

Patty Bettega

Broker Associate and Mendocino property land owner.

REAL ESTATE MARKETING ▲ Post Office Box 900 ▲ Gualala, California 95445 ▲ 707 884-9000
website: www.KennedyRealEstate.com ▲ e-mail: kennedy@mcn.org

4 of 16

Tuesday, September 11, 2012

To: Bob Hartstock
PO Box 319
TSR, CA 95497
(707) 785-2036
bobhart@mcn.org

Subject: Letter of Reference on behalf of **Michael Marr and Judith Malin**, regarding A-1-MEN-09-034 *de novo*

To Whom It May Concern:

My name is Daniel Elias Malin, son of Judith Malin and longtime friend of Mike Marr, currently serving as a Community Economic Development Volunteer with the United States Peace Corps in the Dominican Republic. I have spent the last two years designing and implementing an ecotourism project in my host-community, together with my Dominican counterparts.

Over the years, I have had the pleasure to watch Mike transform our family home from its grey and neglected state into a beautiful, mahogany-colored house that blends effortlessly with the surrounding forest. He has always made a special effort to use simple, elegant designs in his woodwork that conform to their environments—often using hand-picked natural materials.

As a lifelong conservationist and a community activist, I understand the need to preserve natural, open spaces for future generations. That's why I do not hesitate to support Mike's effort to build a home on his property. He would do an excellent job at maintaining the land's natural beauty and I am certain that their future home will ensure that it stays protected for many years to come.

Thank you for your consideration,

Signature on File

Daniel Malin
U.S. Peace Corps
Dominican Republic (10-12)
Daniel.e.malin@gmail.com

5 of 16

Bob Hartstock
36455 Timber Ridge Road
The Sea Ranch, CA 95497

21 November 2012

TO: THE CALIFORNIA COASTAL COMMISSION
North Coast Office
710 E Street, Suite 200
Eureka, CA 95501
District Manager: Bob Merrill

REGARDING: The Marr/Malin Residence
2800 North Highway One
Albion, CA 95410
Appeal: A-1-MEN-09-034

Dear Mr. Merrill:

I support this project. The design is a good example of building a home which harmonizes with the natural setting and building traditions of the region. It responds to the forces of the sun and wind and forms an appropriate fit with the typography and existing vegetation. It does not project a grand Architectural statement, but seeks to blend in to the existing environmental setting and the historical context.

The design is simple without being plain, and yet it has a strong presence without being aggressive. It is an appropriate response to the site and its settings.

The barn and house are clustered together to preserve large areas of open space. The buildings are wrapped in a limited palette of dark, natural materials.
Landscaping will reinforce the character of the site and screen the buildings with indigenous plantings along the western and southern edges of the buildings.

Its been a pleasure working with CCC staff towards refining the design and addressing the concerns of several individuals.

Sincerely.....BOB HARTSTOCK

6 of 16

Bob Hartstock

From: Ellen-Alisa Saxl [ellenalisa26@gmail.com]
Sent: Sunday, September 09, 2012 9:37 PM
To: bobhart@mcn.org
Subject: Marr-Malin Property

9-10-12

Dear Mr. Hartstock and the California Coastal Commission:

Having reviewed your staff report and studied the site plans for the Marr/Malin property I appreciate the solutions that have evolved to the benefit of all concerned parties, and applaud your conscientious process. The home and barn will be not only unobtrusive, but nestle into the landscape in a balanced and pleasing manner.

You will find Mike and Judy to be good neighbors and respectful stewards of this precious land.

Sincerely,

Ellen-Alisa Saxl

8205 Kincross Drive

Boulder, CO

Bob Hartstock

From: Janie Tate [Janie@SeaAngel.org]
Sent: Monday, September 10, 2012 7:15 PM
To: bobhart@mcn.org
Subject: Appeal# A-1-MEN-09-034 in Albion

Dear Mr Hartstock,

Thank you and your team for a sensitive and reasonable report on Mr. Marr's project here.
I know it could not have been a pleasant experience dealing with people here that appear to represent all the residents when so many of us are too busy to attend meetings.

In my opinion Mr. Marr would be a fine and compatible addition to the community. He is an artist and a nature lover and would never present a threat to the environment on his land. I think his project would not hurt the public view of the meadows and forest it adjoins. I look forward to watching the development as it progresses.

sincerely ,
Janie Tate
property owner

D
9
5

Bob Hartstock

From: Steve Sahr [stevesahr@gmail.com]
Sent: Tuesday, September 25, 2012 5:42 PM
To: bobhart@mcn.org
Subject: Fwd: Michael Marr and Judy Malin's project review.

Sent from my iPhone

Begin forwarded message:

From: Steve Sahr <stevesahr@gmail.com>
Date: September 25, 2012 6:01:07 PM EDT
To: "whitey@whiteymarr.com" <whitey@whiteymarr.com>
Subject: Michael Marr and Judy Malin's project review.

Dear Mr. Hartstock,

Earlier this month I received a request from a dear friend of mine to look over his architectural and elevation drawings of his proposed residence on Highway One, south of Albion CA. It is with great pleasure to put a word or two in favor of Michael and Judy's project. First I would like to give honor and praise for Michael's character and determination. He has been an unending friend to me since I have known him since 1995. We met in a place of his previous residence on the island of Martha's Vineyard where I currently live and work. At the time I met Michael he was progressing on what was at one time his own tireless efforts of constructing a beautiful and peaceful dwelling. It was surrounded by carefully placed walkways and stone facades that were his own efforts. Moss gardens, natural drainage through his own concrete castings of curbs leading to pools of water. The outside of his residence was a very blissful place to spend time. His skill as a carpenter, woodworker and mason was evident on the inside and out of his modest timber framed home. All of the work on his own house was of his design and his knowledge and determination. It is a home that is appreciated by its new owner as a property that conforms and blends naturally with the surrounding landscape.
While Michael constructed his home he also worked locally in the community partnered with a man who later became the local town building inspector in Oak Bluffs and Aquinnah MA. Michael also served on the Chilmark Fire Dept. as a volunteer.
Michael is very qualified, determined and able to build the new residence he desires in California. Michael is some one the local community will come to appreciate in their community. I have no doubt he will continue to be the selfless friend to others that he has been to me.
I noticed that Michael has had to go through some delays regarding the approval of his project. I hope this hearing will be his last and

once and for all be able to commence constructing his new residence.
I personally find the design and layout considerate to the land and the nearby scenic coastal highway. Knowing Michael, his project will fit in with great taste to the terrain that he has continued to redesigned to fit in with the limitations imposed on him. Michael cares about the impact his residence has on his surroundings and I have every reason to believe that he will minimize the impact of construction on his land. Michael is a man of his word and stands by his friends. That is one man I miss who has come and gone like many others I have met here over the past twenty years.
Thank you for your time.
Sincerely,
Steve Sahr
P.O. Box 452
Chilmark MA 02535
(508)-335-3849
Stevesahr@gmail.com

Sent from my iPhone

10 of 16

Bob Hartstock

From: m^2 [whitey@whiteymarr.com]
Sent: Tuesday, October 23, 2012 5:10 PM
To: BOB
Subject: albion project for marr/malin

To whom it may concern,

My name is James A. Morgan. I am president and owner of my landscape business Morgan Stone and Landscape here on Martha's vineyard. I've been friends with Mike for about 18 years and was very dishartened to hear that he's had so much opposition towards getting this project started. I've seen his work and the

last thing he would do is put up a tacky shack! It will totally fit into the landscape and will enhance the beauty of the surrounding areas. The neighbors should be honored to have someone like Mike Marr as a neighbor as I did when

he lived here. I hope to someday soon help Mike with the building of his home and see the beauty of this land.

Sincerely,
James Morgan

Bob Hartstock

From: John Passyka [diverjon@mcn.org]
Sent: Wednesday, September 12, 2012 11:52 AM
To: bobhart@mcn.org
Subject: Fwd: letter for you

Begin forwarded message:

Greetings Mr. Hartstock

I am another property owner who does not have time to attend meetings. Please be aware that many of us feel like I do in our 100% support of the Marr/Malin project.
There is not just one community in Albion, there are the vocal ones who appeal any new projects and there are the silent ones...retired citizens, the commercial fishermen, the recluse. There are those just trying to survive during difficult times, those in the process of healing, and the self employed working on computers.
Mike and Judy are the kind of people with the abilities we want living in our community. An addition to those of us that have invested our life savings here and truly care about our natural beauty. When you own land you want to protect it. They will be good stewards and I'm sure their buildings will be an interesting complement to the view if only in sight for a few seconds along the highway.

John Passyka and family

Bob Hartstock

From: m^2 [whitey@whiteymarr.com]
Sent: Wednesday, October 17, 2012 4:47 AM
To: BOB
Subject: FW: ALBION

-----Original Message-----
From: ekcburgess@aol.com [mailto:ekcburgess@aol.com]
Sent: Wednesday, October 17, 2012 7:33 AM
To: whitey@whiteymarr.com
Subject: ALBION

Eleanor Burgess
29 Longfellow Rd
Jamestown, RI 02835
10/17/2012

3-1-6

to: Executive Director Charles Lester and Chair Schallenberger

My name is Eleanor Burgess. I reside in Jamestown, RI and have employed Michael Marr for numerous jobs on my property for the last several years.

I have been apprised of Mike & Judy's project over this period of time and have kept track of the events et al. I am familiar with the design and the region regarding Mike and Judy's plans. I am also very fond of this region.

It is my view that this would be an excellent contribution to the setting of Albion.
Please accept my support of this project

Sincerely,
Eleanor Burgess, MCP

Century 21
Alliance
1045 College Avenue
Santa Rosa, California 95404
Office (707) 577-7777
Fax (707) 303-3733

October 29, 2012

California Coastal Commission
Attn: Executive Director Charles Lester and Chair Mary Schallenberger
710 E Street Suite 200
Eureka, CA 95501

RE: A-1 MEN-09-034

Dear Mr. Lester and Ms. Schallenberger,

As a local Sonoma County real estate broker since 1978 and a past member/chairman of the North Coast Regional Water Quality Control Board (1991-1999), I am familiar with issues that have been before governmental agencies on the North Coast.

In regard to Michael Marr and Judith Malin's attempt to complete their construction on their property in Albion, I have a few comments. In reviewing the Coastal Commission's Staff Report Appeal, it seems clear that they have gone to great lengths to satisfy the County of Mendocino and the Coastal Commission's concerns. Please approve this appeal and let them move on with no further delays as this would be a wonderful contribution to the area in Albion.

Thank you for your consideration.

Yours truly,

Ross

Ross Liscum, CRS
Broker Associate

14916

Gedik, Tamara@Coastal

From: Bob Hartstock <bobhart@mcn.org>
Sent: Tuesday, November 27, 2012 6:32 PM
To: Gedik, Tamara@Coastal; Merrill, Bob@Coastal
Cc: 'm^2'
Subject: FW: Marr-Malin letter of support
Attachments: CopyPlus-MarrMalinLetterOfSupport.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Tamera...
I just got in another letter.
Please add it to the group.
This is letter #13.

We also FAX'd a copy to you.
Thanks..
bob

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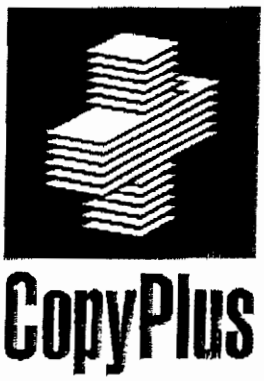

Your Full Service Business & Computing Center

Copy Plus
39225 S. Highway 1 Suite K
P.O. Box 1530
Gualala, CA 95445-1530
Ph: (707) 884-4448 Fax: (707) 884-4449 Email: copyplus@mcn.org

To: Executive Director Charles Lester and Chair Schallenberger,
California Coastal Commission

Re: A-1-MEN-09-034
Marr / Malin Residence
2800 North Highway One
Albion, CA 95410

My name is David Goretsky, and I have owned and operated Copy Plus in Gualala for over 10 years. In that time I have seen and printed thousands of plans for property up and down the northern Sonoma and southern Mendocino coasts. I have worked on the Marr/Malin project since its inception, printing all plan revisions for it, so I would consider myself an expert on the status and intent of this project.

In my opinion, the design is subtle and fits in well with the existing architecture on the coast. In addition, for four years I commuted from Mendocino to Gualala and passed the site from both the north and the south every day. Given the house and vegetation plans, I feel this would not diminish the view for drivers along Highway 1 at all; in fact, it may add to its rustic charm.

It is my view that this would be an excellent contribution to the setting of Albion.

Please accept my support of this project

Signature on File 11-26-2012

David Goretsky

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