

CALIFORNIA COASTAL COMMISSION

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



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Staff Report: February 17, 2011
Hearing Date: March 9, 2012
Commission Action:

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: **A-1-MEN-00-028-A1**

APPLICANT: Dave and Deanna Bing

PROJECT LOCATION: A 3.9-acre parcel located on the south side of Navarro Ridge Road, approximately 1.25 miles southeast of its intersection with Highway One, at 31991 Navarro Ridge Road, Mendocino County (APN 126-060-02).

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construction of an 18-foot-high, 2,524-square-foot single-family residence with an attached 612-square-foot garage; installation of leach field and septic system; connection to existing well and on-site utilities; and temporary occupancy of a travel trailer during construction of the residence.

DESCRIPTION OF AMENDMENT REQUEST: Modify permit granted for construction of an existing residence to (1) authorize after-the-fact construction by applicant of secondary improvements consisting of an 80-square-foot pump house, 64-square-foot shed, 5,500-gallon water storage tank, 2,254-square-foot bocce court, and 108 linear feet of fencing and entry gate; (2) authorize after-the-fact deviations to the approved house design; (3) modify the approved landscaping plan to reduce the number and location of screening trees to be planted from a minimum of ten

trees to two; and (4) authorize the dismantling and rebuilding of a defective concrete bocce court within the same footprint.

LAND USE DESIGNATION: Rural Residential, 5 Acre Minimum (RR-5)

ZONING DESIGNATION: Rural Residential with density limitation and floodplain combining districts (RR:L-5/RR:L-5 DL/FP)

LOCAL APPROVALS REQUIRED: None.

OTHER APPROVALS REQUIRED: None.

SUBSTANTIVE FILE DOCUMENTS: Mendocino County LCP; CDP File No. A-1-MEN-00-028 (Jones)

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission approve with conditions, the requested amendment to the coastal development permit originally granted for the construction of a single-family residence on a ridgetop parcel located above the Navarro River at 31991 Navarro Ridge Road, approximately 1.25 miles east of the ocean, at a location directly opposite of the north end of the Highway One Bridge over the Navarro River in Mendocino County.

The original permit approved in January, 2001 (CDP No. A-1-MEN-00-028, Jones) authorized the construction of an 18-foot-high, 2,524-square-foot single-family residence with an attached 612-square-foot garage; installation of a leach field and septic system; connection to existing well and on-site utilities; and temporary occupancy of a travel trailer during construction of the residence. The permit was approved with four (4) special conditions, three of which were intended to ensure the protection of visual resources by requiring the planting of native vegetation for screening (Special Condition No. 1); prohibiting removal of trees in most instances (Special Condition No. 4); and imposing design restrictions to minimize glare and exterior lighting, and to ensure the approved residence would blend into other natural features on the site as seen from Navarro Ridge Road (Special Condition No. 2). Lastly, Special Condition No. 3 was imposed to prevent cumulative impacts that could otherwise result from long-term use of the travel trailer as a second residence on the site. Staff recommends reimposing Special Condition Nos. 2, 3 and 4 as conditions of CDP Amendment No. A-1-MEN-00-028-A1 without any changes, modifying and reimposing Special Condition No. 1, and attaching Special Condition Nos. 5, 6, 7, and 8 as additional new special conditions.

The current applicants purchased the property in 2006. The current amendment request seeks to modify the permit granted for the existing residence to (1) authorize after-the-fact construction by applicant of secondary improvements consisting of an 80-square-foot pump house, 64-square-foot shed, 5,500-gallon water storage tank, 2,254-square-foot bocce court, and 108 linear feet of fencing and entry gate; (2) authorize after-the-fact deviations made by the previous owner to the

approved house design; (3) modify the approved landscaping plan required by Special Condition No. 1 to reduce the number and location of screening trees to be planted from a minimum of ten trees to two; and (4) authorize the dismantling and rebuilding of a defective concrete bocce court within the same footprint.

The primary issues raised by the project as proposed to be amended include the protection of visual resources, remedying alleged violations of previously-approved permit requirements, and the protection of water quality resources. The existing residence was constructed within the designated building envelope, although the final house configuration deviates slightly from the development approved by the Commission on January 12, 2001. In addition, the existing exterior lights on all elevations are not directionally-downcast (contrary to and as required by Special Condition No. 2), and the landscaping required by Special Condition No. 1 was never installed. Furthermore, the concrete used in construction of the bocce court that was installed without the benefit of a permit has been deemed defective and the applicant requests to demolish and rebuilt the bocce court in its current location.

The applicants propose to rectify the alleged violation of Special Condition No. 1 of CDP No. A-1-MEN-00-028 by planting vegetation to screen the development from public vantage points along Highway One and the Navarro River. However, the applicants' agent has indicated that, following a site evaluation and recommendations prepared by a consulting arborist, the landscaping plan prepared and approved pursuant to Special Condition No. 1 does not meet current State Fire Safety regulations because California Law (PRC 4291) requires property owners to create 100' of defensible space for fire around homes and the 2001 Landscape Plan (Exhibit No. 7) does not allow for adequate horizontal space between the tree canopies. The consulting arborist indicates that the desired screening from Highway 1 can be accomplished by planting trees farther down the slope than depicted on the landscaping plan, and suggests planting two trees at the same elevation as a cluster of existing fir trees that contribute in part to screening the development. Commission staff has assessed the development from public vantage points on varying occasions and believes that the backdrop of trees behind (north of) the development, combined with the existing cluster of fir trees, subordinate the development. In addition, the existing cluster of fir trees downslope of the development casts a shadow during portions of the day that darkens the landscape in a way that blends the subject development in further with its surroundings.

Therefore, the landscape plan requirements imposed by Special Condition No. 1 have been modified to reflect the proposed change. Special Condition No. 1C has been added to ensure that if any existing or planted trees die, become decadent, rotten, or weakened by decay or disease, or are removed for any reason, they shall be replanted with locally native tree species appropriately-suited for the site. Due to the unsuccessful history of fulfilling the original permit requirements imposed by Special Condition No. 1, Special Condition No. 1F is added to require the success of the landscaping installation to be monitored on a regular basis, and monitoring results be submitted annually to the Executive Director by December 31 of each calendar year for a period of three years. Furthermore, Special Condition No. 1G is added to require the applicant to submit an amendment to the coastal development permit proposing additional mitigation measures if after three years the landscape plantings are unsuccessful.

In addition, the applicant seeks to remedy the nonconforming lighting by retrofitting existing lights with an interior shield (dark sky sleeve) that would direct the light downward. Because some of the proposed development has already commenced without the benefit of a coastal development permit, Special Condition No. 5 acknowledges that this coastal development permit amendment shall be deemed issued upon the Commission's approval and will not expire.

Special Condition No. 6 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 purchasers 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 tree removal from the subject property.

Special Condition No. 7 expressly requires all future improvements to the approved development to obtain a coastal development permit so the County and the Commission would have the ability to review all future development on the site to ensure that future improvements will not be sited or designed in a manner that would result in an adverse environmental impact.

Special Condition No. 8 requires best management practices to be implemented on site prior to and during construction activities associated with the demolition and reconstruction of the bocce court, including in part that during construction: (1) rice straw or 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) excess excavated material and/or debris shall be removed from the project site and disposed of at a disposal site outside the coastal zone; (4) on-site stockpiles of construction debris shall be covered and contained at all times to prevent polluted water runoff; and (5) any disturbed areas be replanted with native plants obtained from local stock immediately following project completion.

As conditioned, staff believes that the amended development is consistent with the policies of the certified Mendocino County LCP. Therefore, staff recommends that the Commission find that the development as conditioned is consistent with the certified Mendocino County LCP.

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

STAFF NOTES:

1. Procedural Note

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

The Executive Director has determined that the proposed amendment would not lessen or avoid the intent of the conditionally approved permit. On January 12, 2001, Coastal Permit No. A-1-

MEN-00-028 (Bob and Lori Jones) was approved by the Commission for the construction of an 18-foot-high, 2,524-square-foot single-family residence with an attached 612-square-foot garage; installation of leach field and septic system; connection to existing well and on-site utilities; and temporary occupancy of a travel trailer during construction of the residence. The permit was approved with four (4) special conditions, three of which were intended to ensure the protection of visual resources by planting native vegetation for screening (Special Condition No. 1); prohibiting removal of trees in most instances (Special Condition No. 4); and imposing design restrictions to minimize glare and exterior lighting, and to ensure the approved residence would blend into other natural features on the site as seen from Navarro Ridge Road (Special Condition No. 2). Lastly, Special Condition No. 3 was imposed to prevent cumulative impacts that could otherwise result from long-term use of the travel trailer as a second residence on the site.

The existing residence was constructed within the designated building envelope, although the final house configuration deviates slightly from the development approved by the Commission on January 12, 2001 (See Exhibit 5), and the existing exterior lights on all elevations are not directionally-downcast (contrary to and as required by Special Condition No. 2). In addition, the landscaping required by Special Condition No. 1 was never installed.

The current amendment request seeks to modify the permit granted for the existing residence by (1) obtaining after-the-fact authorization for construction by the applicant of certain secondary improvements; (2) obtaining after-the-fact authorization for deviations made by the previous owner to the approved house design; and (3) modifying the landscaping plan approved for CDP No. A-1-MEN-00-028 to reduce the number and location of screening trees to be planted from a minimum of ten trees to two. In addition, the applicant seeks to remedy the nonconforming lighting by retrofitting existing lights with an interior shield (dark sky sleeve) that would direct the light downward.

The applicants propose to rectify the alleged violation of Special Condition No. 1 of CDP No. A-1-MEN-00-028 by planting vegetation to screen the development from public vantage points along Highway One and the Navarro River. However, the applicants' agent has indicated that, following a site evaluation and recommendations prepared by a consulting arborist, the landscaping plan prepared and approved pursuant to Special Condition No. 1 does not meet current State Fire Safety regulations. The consulting arborist indicates that the desired screening from Highway 1 can be accomplished in a manner consistent with State Fire Safety regulations by planting trees farther down the slope than depicted on the landscaping plan and planting two trees at the same elevation as a cluster of existing fir trees that partially screen the development. Commission staff has assessed the development from public vantage points on varying occasions and believes that the backdrop of trees behind (north of) the development, combined with the existing cluster of fir trees, subordinate the development in a manner similar to how the originally approved landscaping plan would have subordinated the development. In addition, the existing cluster of fir trees downslope of the development casts a shadow during portions of the day that darkens the landscape in a way that blends the subject development in further with its surroundings.

Therefore, the Executive Director has determined that the proposed amendment with special conditions requiring (a) implementation of the revised landscaping plan with requirements to

replace dead or weakened trees and monitor the success of the landscaping, (b) requiring all future improvement to the approved development to obtain coastal development permit authorization to ensure that future improvements will not be sited or designed in a manner that would result in adverse visual impacts, and (c) recordation of a deed restriction to inform property owners of the requirements to maintain the landscaping and obtain permits for future development, would not conflict with the intent of Coastal Development Permit No. A-1-MEN-00-028 as previously approved because the amended development as conditioned would continue to protect views from public vantage points along Highway One and the Navarro River and will ensure the amended development will continue to blend into other natural features on the site as seen from Navarro Ridge Road. As the amended development as conditioned, would not result in a lessening or avoidance of the intent of the originally approved permit, the Executive Director accepted the amendment request for processing.

2. Standard of Review

The Coastal Commission effectively certified Mendocino County's Local Coastal Program (LCP) in October of 1992. Pursuant to Section 30604 of the Coastal Act, after effective acceptance of a certified LCP, the standard of review for all coastal permits and permit amendments for developments located between the first public road and the sea is the certified LCP and the public access policies of the Coastal Act. As the subject development is located inland of the first public road from the sea, the standard of review that the Commission must apply to the project is the certified Mendocino County LCP.

3. Scope

This staff report addresses only the coastal resource issues affected by the proposed permit amendment, provides recommended special conditions to reduce and mitigate significant impacts to coastal resources caused by the development as amended in order to achieve consistency with the LCP, and provides findings for conditional approval of the amended development. All other analyses, findings, and conditions related to the originally permitted development, except as specifically affected by the current permit amendment request and addressed herein, remain as stated within the original permit approval adopted by the Commission on January 12, 2001. The revised findings adopted by the Commission on May 11, 2001 to reflect the Commission's action in approving the original permit on January 12, 2001 are attached as Exhibit No. 11.

I. MOTION, STAFF RECOMMENDATION AND RESOLUTION:

The staff recommends that the Commission adopt the following resolution:

Motion:

I move that the Commission approve Coastal Development Permit Amendment No. A-1-MEN-00-028-A1 pursuant to the staff recommendation.

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT AMENDMENT:

The Commission hereby approves the coastal development permit amendment and adopts the findings set forth below on grounds that the development as with the proposed amendment, as conditioned, will be in conformity with the policies of the certified Mendocino County Local Coastal Program. Approval of the permit complies with the California Environmental Quality Act because feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment.

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

III. SPECIAL CONDITIONS:

Note: The original permit (CDP No. A-1-MEN-00-028) contains four special conditions, three (3) of which (Special Condition Nos. 2, 3 and 4) are reimposed as conditions of CDP Amendment No. A-1-MEN-00-028-A1 without any changes and remain in full force and effect (See Exhibit 11, pages 4-5). Special Condition No. 1 is modified and reimposed as a condition of CDP Amendment No. A-1-MEN-00-028-A1. Special Condition Nos. 5, 6, 7, and 8 are additional new special conditions attached to CDP Amendment No. A-1-MEN-00-028-A1. The new conditions are listed below. For comparison, the text of the original permit conditions is included in Exhibit No. 11 on pages 4-5 of the Exhibit.

Deleted wording within the modified special conditions is shown in ~~strikethrough~~ text, and new condition language appears as **bold double-underlined** text.

1. Landscaping Plan:

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT WITHIN 60 DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT AMENDMENT PERMIT, OR WITHIN SUCH ADDITIONAL TIME AS THE EXECUTIVE DIRECTOR MAY GRANT FOR GOOD CAUSE, the applicant shall submit, for the Executive Director's review and approval, a **revised** landscaping plan prepared by a qualified professional with expertise in the field of landscaping, such as a landscape architect. The plan shall provide for the planting of an evergreen screen containing at least ~~10~~ **two (2)** drought-tolerant native ~~or naturalized~~ trees along the southwestern side of the residence to minimize the visual impacts to Highway One and the Navarro River Redwoods State Park. The plan shall provide that ~~at least 5~~ of the required trees will be of a fast

growing species such as shore pine and shall specify the type and mature heights of the trees to be planted. The fast growing trees shall be planted at an elevation that is approximately the same as the elevation of the base of the ~~approved house~~ **existing fir trees on the southerly slope, approximately 40 feet south of the existing home, between the existing fir trees and the southwestern property line.** The plan shall further include a tree maintenance program (e.g., pruning, fertilizing, watering, etc.) for newly planted trees and a tree replacement program on a one-to-one or greater ratio for the life of the project. All trees to be planted shall be a minimum of five feet high when planted and must reach a mature height of at least 20 feet. ~~The new trees and shrubs~~ **All new plantings** shall be planted within ~~60 days~~ **the first fall/early winter period following Commission approval of this coastal development permit amendment** of completion of the project.

The plan shall further provide that:

- i. **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. 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 planted or allowed to naturalize or persist within the development site. 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;**
- ii. **Rodenticides containing any anticoagulant compounds, including but not limited to, Bromadiolone, Brodifacoum, or Diphacinone, shall not be used; and**
- iii. **Plantings shall be deemed successful if additional new growth is observed during each growing season following planting without signs of disease, dehydration, herbivory, or wind damage. The success of the landscaping plan shall be monitored on a regular basis, and monitoring results shall be submitted annually to the Executive Director by December 31 of each calendar year for a period of three years.**
- iv. **If after the three-year monitoring period it is determined that the plantings are unsuccessful, the applicant shall submit an amendment to the coastal development permit proposing additional mitigation to ensure that vegetation screening is successfully implemented consistent with the terms and conditions of this permit. Such additional mitigation may include but is not limited to propagation and replacement planting; additional irrigation; weeding; invasive exotic eradication; maintenance;**

or any other practice to achieve these requirements, and further monitoring and reporting for an additional three years after additional mitigation efforts.

- B.** The applicant shall notify the Executive Director in writing when trees have been planted, and Commission staff shall verify the planting via a site visit or by examining photographs submitted by the applicant. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall not occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required because the change is not substantive in nature.
- C.** **All plantings and all existing trees on the parcel shall be maintained in good condition throughout the life of the project to ensure continued compliance with the approved final landscape plan. If any of the existing trees or any of the trees and plants to be planted 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;**
5. **Permit Expiration & Condition Compliance**
- Because some of the proposed development has already commenced without the benefit of the necessary coastal development permit amendment, this coastal development permit amendment shall be deemed issued upon the Commission's approval and will not expire. Failure to comply with the special conditions of this permit may result in the institution of an action to enforce those conditions under the provisions of Chapter 9 of the Coastal Act.
6. **Deed Restriction**
- WITHIN 180 DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT AMENDMENT PERMIT, OR WITHIN SUCH ADDITIONAL TIME AS THE EXECUTIVE DIRECTOR MAY GRANT FOR GOOD CAUSE,** the applicant shall submit for the review and approval of the Executive Director, documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit as amended a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit as amended, 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 amended 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 as amended. 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 as amended shall continue to restrict the use and enjoyment of the subject property so long as either this permit as amended or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

7. Future Development Restrictions

This permit amendment is only for the development described in Coastal Development Permit Amendment No. A-1-MEN-00-028-A1. Any future improvements to the single-family residence or other approved structures will require a further permit amendment or a new coastal development permit.

8. Best Management Practices and Construction Responsibilities

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

- A. Rice straw bales, weed-free hay bales, coir rolls, 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 from the project site;
- B. All grading activity shall be limited to the dry season between April 15th and October 14th.
- C. All earth-moving activities other than grading shall be conducted during the period of April 15 through November 15; any earth-moving activity other than grading conducted between October 15 and November 15 shall additionally be subject to the following conditions:
 - 1) All work shall cease upon the onset of precipitation at the project site and shall not recommence until the predicted chance of rain is less than 50 percent for the Albion segment of the National Weather Service's forecast for Northwestern California;
 - 2) The work site(s) shall be winterized between work cessation periods by installing stormwater runoff and erosion control barriers around the perimeter of the construction site to prevent the entrainment of sediment into coastal waters; and
 - 3) Adequate stocks of stormwater runoff and erosion control barrier materials shall be kept onsite and made available for immediate use.
- D. If rainfall is forecast during the time construction activities are being performed, any exposed soil areas shall be promptly mulched or covered with plastic sheeting and secured with sand bagging or other appropriate materials before the onset of precipitation;
- E. All on-site stockpiles of construction debris shall be covered and contained at all times to prevent polluted water runoff.

- F. On-site vegetation shall be maintained to the maximum extent possible during construction activities;
- G. Any disturbed areas shall be replanted or seeded immediately with low-growing herbaceous native species following completion of construction; and
- H. 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.

IV. FINDINGS AND DECLARATIONS FOR APPROVAL

The Commission hereby finds and declares:

1. Site Description

The subject 3.9-acre-parcel straddles the top of Navarro Ridge, an east-west trending ridge that forms the north side of the deep valley carved by the Navarro River as it makes its way west to the Mendocino coast (See Exhibits 1-3). The project site and much of the river valley are part of a designated highly scenic area. Highway One crosses the Navarro River valley on its route north along the coast by first traversing eastward down the flank of the opposite ridge on the south side of the valley, crossing the river on a low bridge at a point approximately 1.25 miles inland from the coast, and finally traversing westward up the southern flank of Navarro Ridge to the coastal terrace north of the mouth of the river. Highway 128 intersects Highway One at the north end of the bridge crossing at Navarro River Redwoods State Park. The subject parcel is one of about a dozen mostly similar-sized parcels zoned for Rural Residential use along this part of Navarro Ridge (See Exhibit 3). These parcels are relatively long and narrow and extend all the way from Navarro Ridge Road, which runs parallel to and north of the crest of the ridge, to Highway One south of the crest along the valley floor next to the river (See Exhibit 2). The parcel is located at 31991 Navarro Ridge Road, approximately 1.25 miles east of the ocean, at a location directly opposite of the north end of the Highway One Bridge over the Navarro River. On January 12, 2001, the Commission authorized development at the subject parcel that included an 18-foot-high, 2,524-square-foot single-story house with an attached 612-square-foot garage. The single-family residence has since been built at the subject site.

Rows of trees rise above the ridge behind many of the homes in the vicinity of the project site. These trees form a backdrop to many of the homes as viewed from Highway One and Navarro River Redwoods State Park. One such row of trees forms a backdrop to the applicant's house.

The ridgeline of the subject parcel is at an elevation of approximately 440 feet above sea level. The south side of the parcel drops steeply down the southern flank of Navarro Ridge to near sea level. North of the crest, the parcel slopes more gently to an elevation of about 410 to 420 feet above sea level near Navarro Ridge Road.

The houses built in the immediate vicinity of the subject property vary in size, height, design, and color, with the result that some are more prominent than others. A string of houses are visible from different vantage points along Highway One on both sides of the river, as well as

from portions of Navarro River Redwoods State Park. The State Park property extends from a beach at the southern side of the river mouth and along the flats along the south side of the river to the Highway One Bridge; the State Park ownership also extends along a portion of the northern river bank (See Exhibit 2). The subject parcel is visible from different vantage points along Highway One on both sides of the river, although from fewer vantage points than the homes located farther west. The subject parcel is only visible from the State Park from vantage points within the river or along the flats near the Highway One Bridge. The site is not visible from the sandy beach along the ocean.

2. Originally Approved Project

The original permit application was approved by the Commission on January 12, 2001, and the permit (No. A-1-MEN-00-028) was issued to Bob and Lori Jones in March 2001. The approved permit authorized the construction of an 18-foot-high, 2,524-square-foot single-family residence with an attached 612-square-foot garage; installation of leach field and septic system; connection to existing well and on-site utilities; and temporary occupancy of a travel trailer during construction of the residence.

The original permit was approved with four (4) special conditions to ensure the protection of visual resources and to prevent cumulative impacts that could otherwise result from long-term use of the travel trailer as a second residence on the site. Special Condition No. 1 required in part that the applicant submit a landscaping plan that would “provide for the planting of an evergreen screen containing at least 10 drought-tolerant native or naturalized trees along the southwestern side of the residence to minimize the visual impacts to Highway One and the Navarro River Redwoods State Park.” Special Condition No. 1 further required the landscaping to be planted within 60 days of completion of the project. In addition, Special Condition No. 4 prohibited the removal of trees other than those necessary for the construction of the house and garage, or as required to meet fire safety regulations of California Department of Forestry and Fire Protection (CalFire).

Special Condition No. 2 imposed design restrictions to ensure the approved residence would blend into other natural features on the site as seen from Navarro Ridge Road. These restrictions limit the color of building material and disallow use of reflective materials, to minimize glare. Additionally, Special Condition No. 2 requires all outside lights to be low-wattage, non-reflective, and have a directional cast downward.

Special Condition No. 3 allowed for the temporary use of the travel trailer as a residence while the main residence was being completed, and required the applicant to remove the temporary trailer prior to occupancy of the main residence.

The existing residence was constructed within the designated building envelope, although the final house configuration deviates slightly from the development approved by the Commission on January 12, 2001 (See Exhibit 5). In addition, the landscaping required by Special Condition No. 1 was never installed.

3. Deviations From the Approved House Design

According to the applicant's agent, the previous owners obtained building permit No. 2001-0184 following Commission approval of the coastal development permit in 2001. Mendocino County Building Department conducted the final building inspection on October 9, 2002. The current applicant purchased the property in February 2006 and intended to seek authorization to remodel the house.

As initially submitted, the coastal development permit amendment application included house plans for a proposed house remodel (which has since been eliminated from the project proposal¹). Upon examination of the proposed design modifications and the file for the original coastal development permit, Commission staff observed differences between the approved development and the existing or "as-built" development. These differences include, but are not limited to the following: taller garage sited in different location and configuration than had been approved; modified number and size of originally-approved dormers; and existing exterior lights on all elevations are not directionally-downcast (contrary to and as required by Special Condition No. 2). Commission staff requested that the applicant identify these deviations, which include the following:

- 1) Adding 249 square feet to the proposed residence and removing 7 square feet to the proposed garage for a total combined increase of 242 square feet:
 - a. The dining room was enlarged slightly by having its western wall built a few feet farther westward than what was described in the approved CDP (See Exhibit 5).
 - b. The living room was enlarged slightly by having its southern wall built a few feet farther southward than what was described in the approved CDP (See Exhibit 5).
- 2) Lowering the grade of the site approximately 2'6" to 8'0" to lower the relative height of the proposed structure (maximum average height above natural grade to remain 18'0");
- 3) Minor adjustments to size, shape and locations of proposed windows and doors, including consolidation of dormers on northeastern façade:
 - a. Taller garage
 - i. The as-built garage is taller than what the CDP originally approved, but it does not exceed the height of the rest of the residence.
 - b. Modified number and size of originally-approved dormers
 - ii. The Northeast elevation of the house, as illustrated in Exhibit #5 in the April 20, 2001 Staff Report, shows dormers over the kitchen, loft and master bathroom.

¹ The original project proposed to add a second story to accommodate additional living space above the garage; however Mendocino County Coastal Zoning Code Section 20.504.015(8)(b) explicitly disallows second stories within developments sited on the ridgeline. Therefore, the applicant has withdrawn this request.

- iii. The as-built house did not build the dormers over the kitchen and master bathroom. The as-built house built a dormer over the loft space, which is wider than the 2001 dormer from the Staff Report.
- c. Existing lights not shielded and downcast (contrary to Special Condition No. 2).
- d. The hallway connecting the as-built garage to the residence extends southward rather than eastward, with the garage abutting the length of this hallway (See Exhibit 5).
- e. The southern façade of the as-built garage includes two small windows and a door that is half wood, half glazing. The windows and doors on the southern facade of the as-built house are a slightly different size and configuration than as shown in the approved CDP.
 - iv. Because the windows in the approved CDP were larger than were installed, the as-built house has approximately the same square footage of glazing on its southern façade as is described in the approved CDP.
- f. The northern façade of the as-built garage has a larger garage door, which includes two small rows of windows, which cover approximately the same area as the round window in the approved CDP. The windows and doors on the northern façade of the as-built house are a slightly different size and configuration than as shown in the approved CDP.
 - v. The resulting as-built house has approximately the same square footage of glazing on its northern façade as is described in the approved CDP.

As part of the subject coastal development permit amendment, the applicant is requesting after-the-fact authorization for deviations from the original permit approval that were undertaken prior to their ownership of the property. In addition, the applicant seeks to remedy the nonconforming lighting described in 3c above by retrofitting existing lights with an interior shield (dark sky sleeve) that would direct the light downward (See Exhibit 6).

4. Additional Unauthorized Development Following Permit Approval

Summary of LCP Policies

Mendocino CZC Section 20.532.020 states in applicable part the following (emphasis added):

The following developments shall be exempt from this Chapter:

...

(C) Improvements to single family residences, except as otherwise specified in Subchapter 6, Title 14, California Administrative Code and any amendments thereafter;

...

Section 13250 of the Coastal Commission's Regulations (Chapter 6, Subchapter 6, Title 14 CCR), as incorporated by reference in Mendocino CZC Section 20.532.020(C) states in applicable part the following (emphasis added):

(a) For purposes of Public Resources Code Section 30610(a) [developments authorized without a permit] where there is an existing single-family residential building, the following shall be considered a part of that structure:

(1) All fixtures and other structures directly attached to a residence;

(2) Structures on the property normally associated with a single-family residence, such as garages, swimming pools, fences, and storage sheds; but not including guest houses or self-contained residential units; and

(3) Landscaping on the lot.

(b) Pursuant to Public Resources Code Section 30610(a), the following classes of development require a coastal development permit because they involve a risk of adverse environmental effects:

(1) Improvements to a single-family structure if the structure or improvement is located: on a beach, in a wetland, seaward of the mean high tide line, in an environmentally sensitive habitat area, in an area designated as highly scenic in a certified land use plan, or within 50 feet of the edge of a coastal bluff.

...

Single Family Residential Improvements Do Not Qualify for CDP Exemption

The applicant purchased the subject property in February 2006. Subsequently, the applicant installed an 80-square-foot pump house, 64-square-foot shed, 5,500-gallon water storage tank, 2,254-square-foot bocce court, and 108 linear feet of fencing and entry gate, all without the benefit of a coastal development permit.

Section 30610(a) of the Coastal Act and Section 20.532.020(C) of the Mendocino County Coastal Zoning Code specifically exempt certain improvements to existing single family residential structures from coastal development permit requirements. Pursuant to this exemption, once a house has been constructed, unless the Commission specifies otherwise, certain additions, accessory buildings and other improvements to the residence that the applicant might propose in the future are exempt from the need for a permit or permit amendment.

To avoid impacts to coastal resources from the development of otherwise exempt improvements to existing homes, Section 30610(a) requires the Commission to specify by regulation those classes of such development that 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. Mendocino County CZC Section 20.532.020 states that improvements to single family residences are exempt except as otherwise specified in the Commission's regulations, which include Section 13250.

The improvements noted above are not exempt from coastal development permit requirements pursuant to Section 30610(a) of the Coastal Act and Mendocino County CZC Section 20.532.020(C) because the subject parcel is located within a designated highly scenic area. Mendocino County LUP Policy 3.5 defines highly scenic areas to include, in applicable part, “those [areas] identified on the Land Use Maps as they are adopted.” Adopted Land Use Map No. 19 designates the area inclusive of the site that is the subject of the proposed permit amendment as highly scenic. Section 13250(b)(1) of the Commission’s regulations requires coastal development permits for improvements to a single-family structure if the structure or improvement is located in an area designated as highly scenic in a certified land use plan. Therefore, the developments described above do not meet the exemption criteria of Coastal Act Section 30610(a) and CZC 20.532.020(C) as limited by Section 13250 of the Commission’s regulations. The applicant is therefore seeking to remedy the coastal development permit violations as part of the subject application, as described below.

Therefore, pursuant to Section 13250(b)(1) of the Commission’s regulations, Special Condition No. 7 expressly requires all future improvements to the approved development to obtain a coastal development permit so the County and the Commission would have the ability to review all future development on the site to ensure that future improvements will not be sited or designed in a manner that would result in an adverse environmental impact. Special Condition No. 6 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. 6 will also help assure that future owners are aware of these CDP requirements applicable to all future development.

5. Permit Amendment Description

The proposed amendment request seeks approval to modify the permit to (1) authorize after-the-fact construction by the applicant of secondary improvements consisting of an 80-square-foot pump house, 64-square-foot shed, 5,500-gallon water storage tank, 2,254-square-foot bocce court, and 108 linear feet of fencing and entry gate; (2) authorize after-the-fact deviations made by the previous owner to the approved house design; (3) modify the approved landscaping plan required by Special Condition No. 1 to reduce the number and location of screening trees to be planted from a minimum of ten trees to two; and (4) authorize the dismantling and rebuilding of a defective concrete bocce court within the same footprint. The applicants additionally propose to modify non-downward-cast outdoor lights that were installed by the previous owner, by using a “sleeve accessory” designed to direct light downward, to establish compliance with the existing coastal development permit conditions.

6. Visual Resources

Summary of LCP Policies

Section 30251 of the Coastal Act has been specifically incorporated into **LUP Policy 3.5-1** of the Mendocino LCP and states in part (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.*
- *Portions of the coastal zone within the Highly Scenic Area west of Highway 1 between the Navarro River and the north boundary of the City of Point Arena 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.

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 inclusions of certain areas east of Highway 1.

(3) *Portions of the Coastal Zone within the Highly Scenic Area west of Highway 1 between the Navarro River and the north boundary of the City of Point Arena as mapped with noted exceptions and inclusions 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.*

...

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

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

...

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

...

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 impact of development on hillsides by (1) requiring grading or construction to follow the natural contours; (2) resiting or prohibiting new development that requires grading, cutting and filling that would significantly and permanently alter or destroy the appearance of natural landforms; (3) designing structures to fit hillside sites rather than altering landform to accommodate buildings designed for level sites; (4)

concentrate development near existing major vegetation, and (5) promote roof angles and exterior finish which blend with hillside. 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. Minimize visual impact of development on ridges by (1) prohibiting development that projects above the ridgeline; (2) if no alternative site is available below the ridgeline, development shall be sited and designed to reduce visual impacts by utilizing existing vegetation, structural orientation, landscaping, and shall be limited to a single story above the natural elevation; (3) prohibiting removal of tree masses which destroy the ridgeline silhouette. Nothing in this policy shall preclude the development of a legally existing parcel.

LUP Policy 3.5-5 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 3.5-15 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.

CZC Section 20.308.080 (“Definitions”) states as follows, in applicable part (emphasis added):

(C) “Major Vegetation, Removal or Harvesting” shall be defined to include one or more of the following:

(1) The removal of more than fifteen (15) trees or ten (10) percent of the total number of trees on the parcel, whichever is less, with a diameter of twelve (12) inches or a circumference of thirty-eight (38) inches or more measured at four and one-half (4 ½) feet vertically above the ground; or

(2) The removal of trees within a total contiguous ground area of six thousand (6,000) square feet, or within a noncontiguous area or areas not exceeding a total of six thousand (6,000) square feet measured as the area located directly beneath the tree canopy; or

(3) The Planning and Building Services Director may determine that a proposal to remove vegetation constitutes major vegetation removal if the Planning and Building Services Director finds that it may result in a significant impact. In making a finding that the proposed major vegetation removal may result in a significant impact, the Planning and Building Services Director shall review the proposal and determine if any of the following conditions exist or are proposed:

(a) The vegetation removal involves the use of heavy equipment, or

(b) The vegetation removal is proposed on a steep slope (fifteen (15) percent or greater) and removal of vegetation may result in soil erosion or landslide, or

(c) The vegetation removal is located within or adjacent to an environmentally sensitive habitat, or

(d) The vegetation removal may result in significant exposure of adjacent trees to wind damage, or

(e) The vegetation removal may result in significant degradation of the viewshed.

(f) The removal of one or more trees which measure twenty-four (24) inches or more in diameter at breast height and which are visually or historically significant, exemplary of their species, or ecologically significant.

Project Consistency with Applicable LCP Provisions:

The visual resources protection policies of the LCP require, among other things, that new development be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, and to be visually compatible with the

character of surrounding areas. Policy 3.5-1 of the County's LUP provides for the protection of the scenic and visual qualities of the coast, requiring permitted development to be sited and designed to protect views to and along the ocean and to be visually compatible with the character of surrounding areas. Policy 3.5-3 states that new development in designated "highly scenic areas" should be subordinate to the natural setting. The County's Zoning Ordinance reiterates these policies.

As described above, the existing residence was approved by the Commission in the original permit to be sited along the top of Navarro Ridge, because the Commission found that there was no feasible alternative building site. Mendocino County LUP Policy 3.5-4 and Coastal Zoning Code (CZC) Section 20.504.015(C) prohibits development that projects above ridgelines unless no alternative building site is available. In those instances where alternative building sites are unavailable, CZC Section 20.504.015(C)(8) further requires that such developments utilize existing vegetation, structural orientation, and landscaping; and shall be limited to a single story above the natural elevation. Lastly, LUP Policy 3.5-4 and CZC Section 20.504.015(C)(8)(c) prohibits removal of tree masses which destroy the ridgeline silhouette.

In its approval of the original coastal development permit, the Commission noted in part that the required landscaping and earthtone building material colors will contribute to the proposed house blending in with its surroundings. The Commission further found that although the 18-foot-high house will project above the top of the ridge, the house will not project higher than the tree line of trees that exist at the top of the ridge. In addition, the Commission found that the proposed house is near the eastern end of the string of residential parcels along Navarro Ridge Road, farther from view from the public vantage points along Highway One and the Navarro River than all but a few of the houses along the ridge. Therefore, the Commission concluded that as conditioned to require a landscaping plan, limit the color of building material, and prohibit tree removal, the development considered under the original permit is compatible and subordinate to the character of its setting consistent with LUP Policy 3.5-1 and Zoning Code Sections 20.504.010 and 20.504.015 as it will be out of view from public vantage points along Highway One and the Navarro River and will blend into other natural features on the site as seen from Navarro Ridge Road.

Alleged Violations of Coastal Development Permit Requirements

Although Special Condition No. 1 of the original permit required that the owners install all landscaping designed to screen the development within 60 days of project completion, the applicants never fulfilled this requirement. In February 2006, the current applicants purchased the property from the previous owners. According to the applicant's agent, the current applicants were unaware of the permit requirement when they purchased the property.

In addition, during project review Commission staff observed that exterior lighting at the project site did not have a directional cast downward, inconsistent with the design requirements of Special Condition No. 2 of the original permit, and inconsistent with the visual resource policies of the Mendocino County certified LCP, including but not limited to LUP Policy 3.5-15 and CZC Section 20.504.035 that require exterior lighting be shielded. As part of the subject coastal development permit amendment, the applicants propose to rectify the noncompliant exterior lighting by retrofitting the existing lighting with an interior shield (dark sky sleeve) that would

direct the light downward (See Exhibit 6). The applicants also propose to install additional light fixtures that will be directionally downcast and include a dark sky sleeve (See Exhibit 6).

Proposed Amendment to Landscaping Plan

The applicants propose to rectify the alleged violation of Special Condition No. 1 of CDP No. A-1-MEN-00-028 by planting vegetation to screen the development from public vantage points along Highway One and the Navarro River. However, the applicants' agent has indicated that, following a site evaluation and recommendations prepared by a consulting arborist, the landscaping plan prepared and approved (Exhibit No. 7) pursuant to Special Condition No. 1 does not meet current State Fire Safety regulations. The April 20, 2011 letter prepared by the arborist (Exhibit 8), states in part the following:

California Law (PRC 4291) requires property owners to create 100' of defensible space for fire around homes (Exhibit 3). Defensible space includes a 'clean and green' zone 30' immediately surrounding the home. This is accomplished by minimizing vegetation over 2' tall, and planting primarily herbaceous plants instead of shrubs and trees. A fuel reduction zone is required in the remaining 70 feet (or to the property line). This requires creating horizontal and vertical space between trees...

...The tree planting locations plotted on the 2001 Landscape Plan are in conflict with the County and State fire safety requirements. The ten trees are to be planted 10' to 30' apart. Because the trees naturally grow to be 20' to 35' wide, there will be no canopy separation several years after planting. The ten trees will form a dense mass of vegetation within a few feet of your home. Because of the density of the planting, pruning to raise the canopies would not be adequate to meet the fire safe requirements. Rather, it would be necessary to remove trees to create required canopy separation.

To adhere to the California Fire Safe laws, it would be necessary to plant the ten trees required in the Landscape Plan 100' to 200' down the slope, with the farthest tree being planted at an elevation of approximately 250'. With this spacing, none of the shore pines would create a visual screen from Highway 1, and only half of the grand firs would provide screening.

The consulting arborist indicates that the desired screening from Highway 1 can be accomplished by planting trees farther down the slope than depicted on the landscaping plan, and suggests planting two trees at the same elevation as a cluster of existing fir trees that partially screen the development. The consulting arborist recommends planting two shore pine trees (*Pinus contorta* ssp. *contorta*) between the "northwestern"² property line and the existing fir trees to meet both screening and fire safe requirements. The applicant's agent prepared a visual analysis (Exhibit 9) that demonstrates how planting two shore pines consistent with the arborist's recommendations will satisfy the intent of the original permit as approved by the Commission by screening the development from public vantage points along Highway One and the Navarro River.

² While the April 20, 2011 letter prepared by the consulting arborist states "northwestern," based upon Exhibit 2 in the letter and upon site layout, the Commission shall interpret this to mean "southwestern."

Commission staff has assessed the development from public vantage points on varying occasions during site visits in the area and has observed that while the existing cluster of trees does partially screen the development, it does not entirely subordinate the development from the ridgeline. During a recent site visit, Commission staff again observed the site from Highway One at a turnout just north of Mile Marker 41.07, where the site first becomes noticeable heading southbound as one meanders around Navarro Ridge. Photos taken from this vantage point (See Exhibit 10) demonstrate how the backdrop of trees behind (north of) the development, combined with the existing cluster of fir trees, partially subordinate the development. In addition, the existing cluster of fir trees downslope of the development casts a shadow during portions of the day that darkens the landscape in a way that blends the subject development in further with its surroundings. Therefore, the Commission finds that as conditioned, by planting two shore pine trees at the same elevation as the existing cluster of fir trees as proposed, over time the additional vegetation will fully subordinate the development from the surrounding ridgeline without risk of loss of the existing treescape, consistent with the Mendocino County LCP and the intent of the originally-approved development. Therefore, the Commission modifies the landscaping plan requirements of Special Condition No. 1 to require the submittal of a revised landscaping plan within 60 days of Commission approval of the permit that provides for the planting of two drought-tolerant native trees as proposed along the southwest side of the residence at an elevation that is approximately the same as the elevation of the base of the existing fir trees on the southerly slope.

Special Condition No. 4 of the original permit does not authorize the removal of any trees from the subject parcel other than those required to be removed to meet the fire safety regulations of the California Department of Forestry and Fire Protection (CalFire). In addition, removal of existing trees from the area surrounding the development – even those required to satisfy state or local fire safety requirements – would constitute “major vegetation removal” as defined in Mendocino County Coastal Zoning Code Section 20.308.080(C), which is subject to coastal development permit requirements due in part to the location of some trees on a steep slope, and the significant degradation of the viewshed that would result from tree removal. Furthermore, Mendocino County LUP Policy 3.5-4 and CZC Section 20.504.015(C)(8) prohibit removal of tree masses which destroy the ridgeline silhouette. Lastly, Special Condition No. 1C has been added to ensure that if any existing or planted trees die, become decadent, rotten, or weakened by decay or disease, or are removed for any reason, they shall be replanted with locally native tree species appropriately-suited for the site.

Moreover, 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 modified Special Condition No. 1 (landscape plan), to include as Special

Condition No. 1A(ii) a prohibition against the use of any rodenticides or herbicides on the property governed by CDP No. A-1-MEN-00-028 as amended.

Due to the unsuccessful history of fulfilling the original permit requirements imposed by Special Condition No. 1, the Commission attaches Special Condition No. 1A(iii) that requires the success of the landscaping installation to be monitored on a regular basis, and monitoring results shall be submitted annually to the Executive Director by December 31 of each calendar year for a period of three years. Furthermore, the Commission attaches Special Condition No. 1A(iv) that requires the applicant to submit an amendment to the coastal development permit proposing additional mitigation measures if after three years the landscape plantings are unsuccessful.

Therefore, the Commission finds that as conditioned, by planting two shore pine trees at the same elevation as the existing cluster of fir trees as proposed, over time the additional vegetation will fully subordinate the development from the surrounding ridgeline without risk of loss of the existing treescape, consistent with the requirement of the Mendocino County LCP and the intent of the originally-approved development.

Therefore, the Commission finds that as conditioned, the amended development 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, and 3.5-5, and Coastal Zoning Code Sections 20.504.010 and 20.504.015 as it will be out of view from public vantage points along Highway One and the Navarro River and will blend into other natural features on the site as seen from Navarro Ridge Road.

7. Stormwater Runoff

LCP Provisions

LUP Policy 3.1-25 states:

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

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 dissipators [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]

Discussion

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. Additionally, Sections 20.492.015 and

20.492.020 of the Mendocino County Coastal Zoning Code set forth erosion control and sedimentation standards to minimize erosion and sedimentation of environmentally sensitive areas and off-site areas. 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 site is located on the ridgeline above the Navarro River near its outlet to the Pacific Ocean. Runoff originating from the development site that is allowed to drain off the site could 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 associated with dismantling and reconstructing the concrete bocce court.

Therefore, the Commission includes best management practices outlined in Special Condition No. 8 which require in part that during construction: (1) rice straw or 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) excess excavated material and/or debris shall be removed from the project site and disposed of at a disposal site outside the coastal zone; (4) on-site stockpiles of construction debris shall be covered and contained at all times to prevent polluted water runoff; and (5) any disturbed areas be replanted with native plants obtained from local stock immediately following project completion.

The Commission finds that as conditioned, the amended 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 amended 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.

8. Alleged Violation

Although certain development has allegedly taken place at the project site inconsistent with the special condition requirements of the approved coastal development permit (such as the lack of planting vegetation to screen development within 60 days of permit approval), and without the benefit of a coastal development permit amendment (including house design deviations and construction of unpermitted structures such as the bocce court, water tank, fence, gate, and sheds), consideration of the application by the Commission has been based solely upon the proposed project's conformance with the Mendocino County certified Local Coastal Program. Approval of this permit amendment does not constitute a waiver of any legal action with regard

to the alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal development permit or permit amendment.

9. California Environmental Quality Act (CEQA)

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 Coastal Act and Local Coastal Program consistency at this point as if set forth in full. As discussed above, the proposed amended development has been conditioned to be consistent with the policies of the certified Mendocino County Local Coastal Program. The 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 specifically discussed in these above findings, which are hereby incorporated by reference, mitigation measures that will minimize or avoid all significant adverse environmental impacts have been required. As conditioned, there are no other feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts which the activity may have on the environment. Therefore, the Commission finds that the proposed amended development, as conditioned to mitigate the identified impacts, can be found consistent with the requirements of the Coastal Act to conform to CEQA.

Exhibits:

1. Regional Location Map
2. Vicinity Map
3. Coastal Records Project Image
4. Site Plans and Elevations for Proposed/ATF developments
5. Deviations With As-Built House Versus Approved House Design
6. Exterior Light Fixture Specifications
7. Original Landscaping Plan Approved Under CDP No. A-1-MEN-00-028
8. Arborist Report
9. Vegetation Screening Analysis submitted by applicant
10. Photos of Development from Highway 1
11. Staff report revised findings for approval of CDP No. A-1-MEN-00-028

APPENDIX A

STANDARD CONDITIONS:

1. Notice of Receipt & Acknowledgement

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

2. Compliance

All construction must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.

3. Interpretation

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

4. Inspections

The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.

5. 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.

6. Terms & 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.

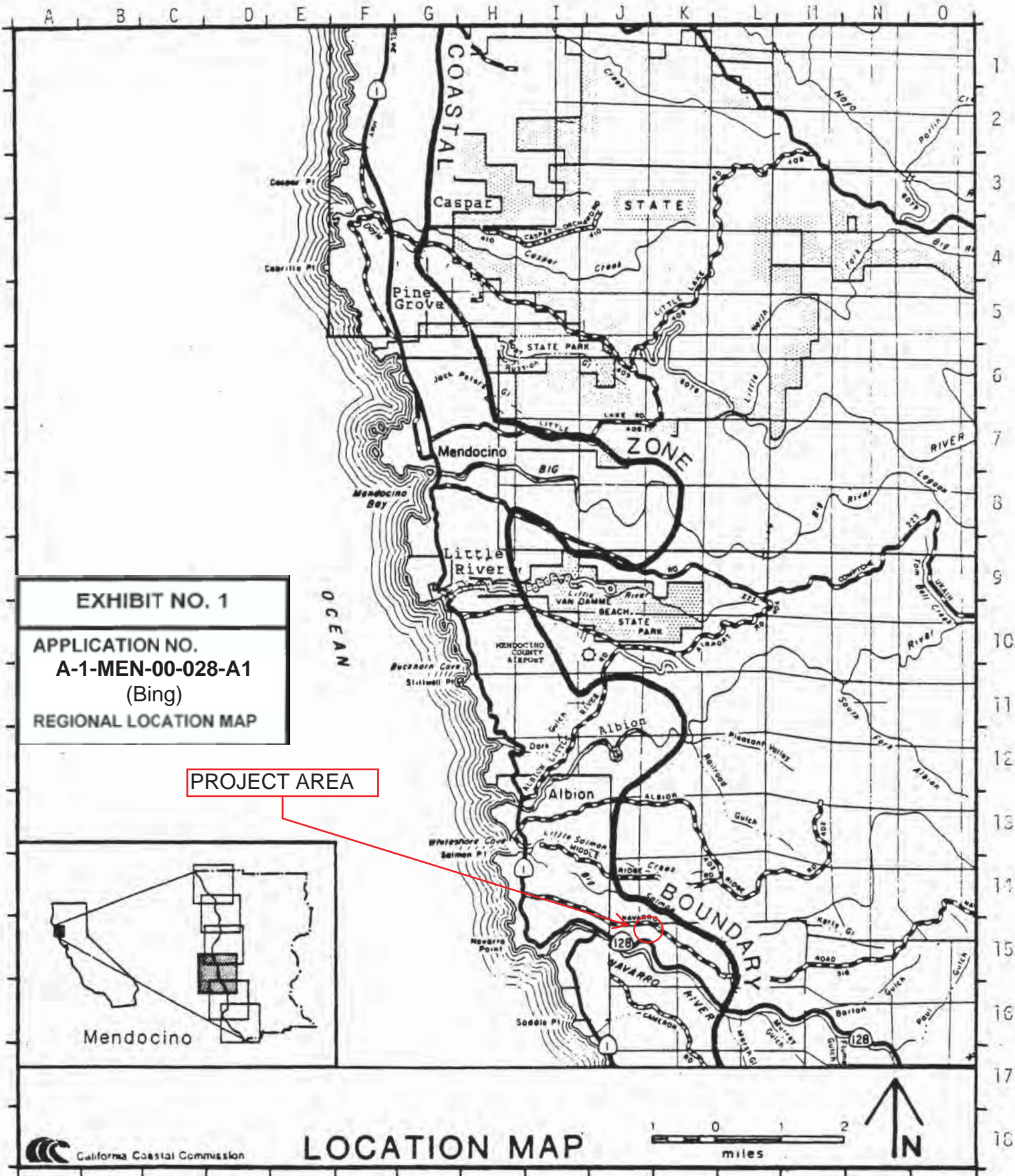
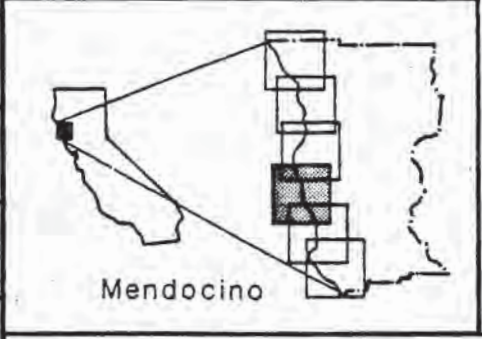
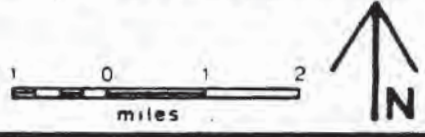


EXHIBIT NO. 1
APPLICATION NO.
A-1-MEN-00-028-A1
 (Bing)
REGIONAL LOCATION MAP

PROJECT AREA



Mendocino



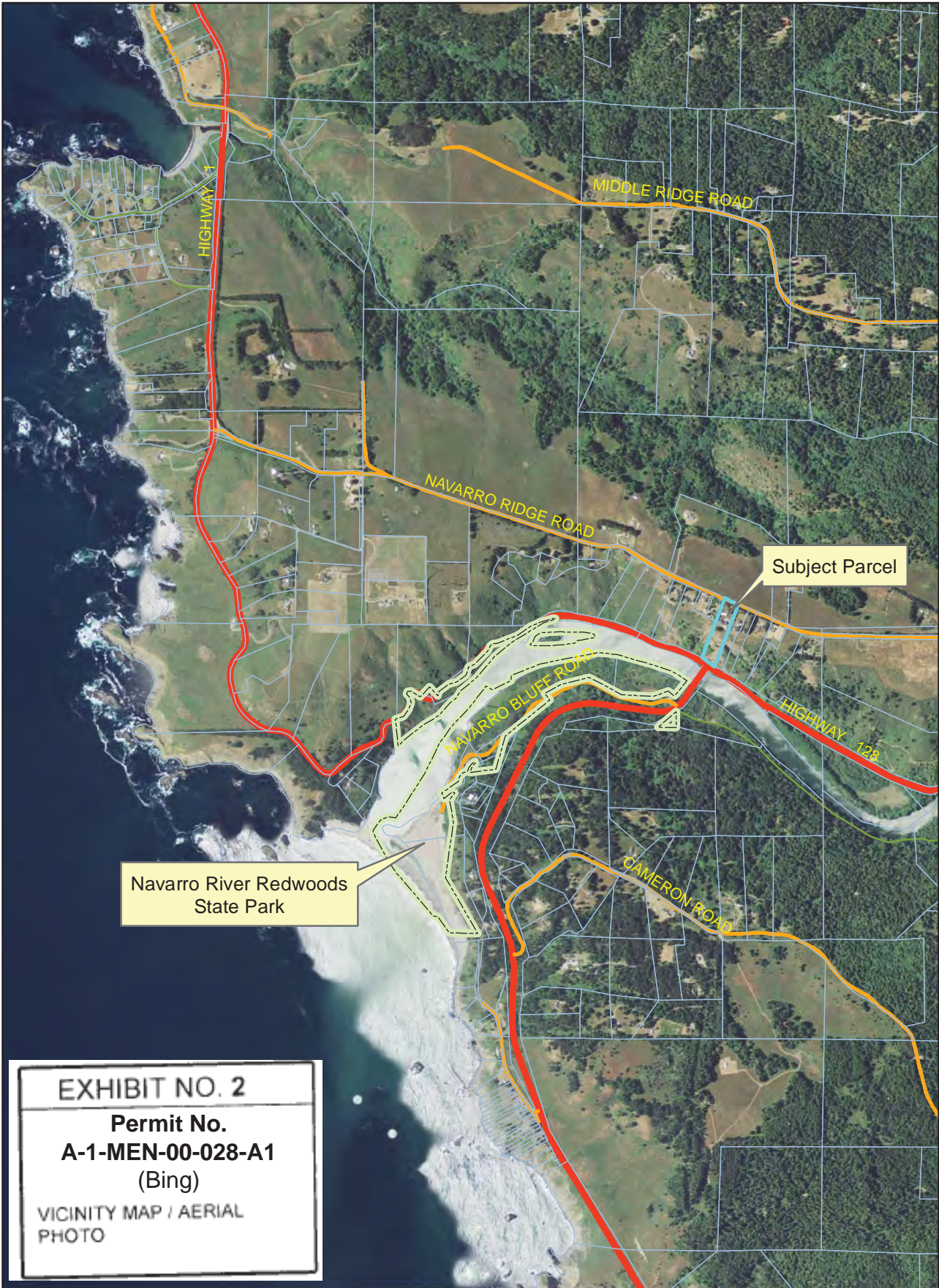


EXHIBIT NO. 2
Permit No.
A-1-MEN-00-028-A1
(Bing)
VICINITY MAP / AERIAL
PHOTO

--- = State Parks Ownership

Applicant's House

Highway One



2005 AERIAL IMAGE SHOWING SUBJECT DEVELOPMENT IN RELATION TO NAVARRO RIDGE, NAVARRO RIVER, HIGHWAY ONE AND STATE PARK LANDS
 Image source: California Coastal Records Project, Image 200503634

EXHIBIT NO. 3
 Permit No.
 A-1-MEN-00-028-A1
 (Bing)
 COASTAL RECORDS
 PROJECT AERIAL IMAGE

Gregg K. Kawahara, Architect
 5822 Dresslar Circle
 Livermore, CA 94550
 (925) 449-6182
 Fax (925) 443-4654

Bing Remodel
 31991 Navarro Ridge Road
 Albion, CA

REVISIONS	
Description	Date

Site Plan

SEE A02 FOR DETAILED SITE INFORMATION
 IDENTIFY

Sheet	A0.1
Date	2-8-02

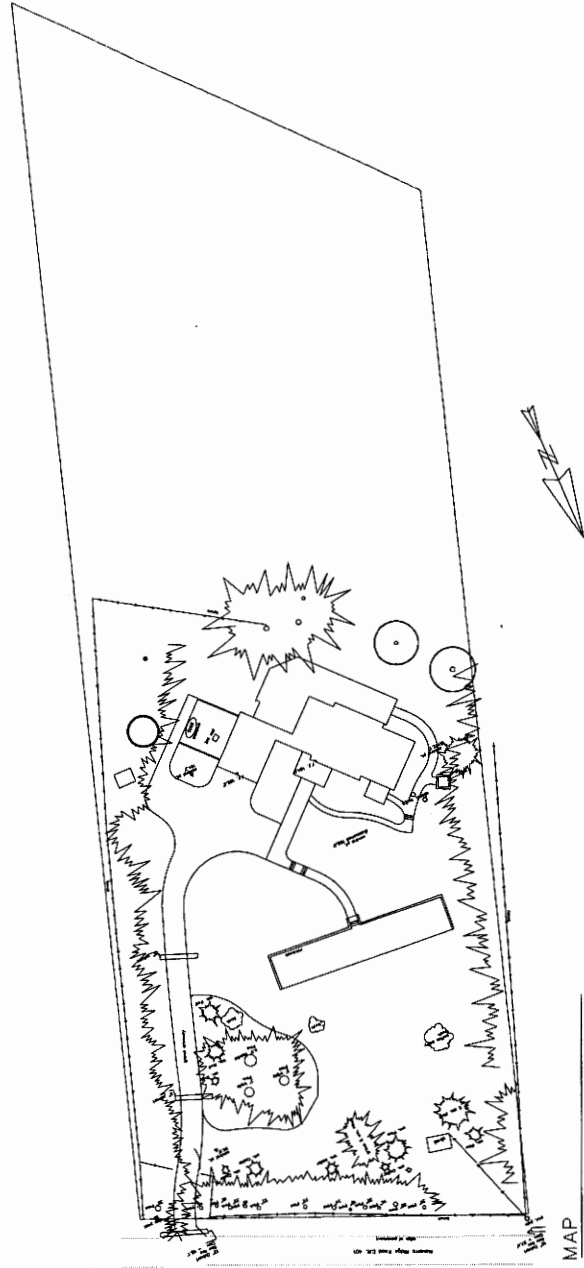


EXHIBIT NO. 4
APPLICATION NO.
A-1-MEN-00-028-A1
BING
SITE PLANS & ELEVATIONS
FOR PROPOSED/ATF
DEVELOPMENTS (1 of 5)

MAP
 Of the lands of Bing, Being a portion of Section 4,
 Township 3 North, Range 17 West, Mount Diablo
 Base and Meridian,
 Mendocino County
 California
 December, 2006
 Survey prepared by Richard A. Seale, L.S. 4455
 elevations are assumed

Gregg K. Kawahara, Architect
 3822 Dresslar Circle
 Livermore, CA 94550
 (925) 449-6182
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Bing Remodel
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REVISIONS	
Δ	Date

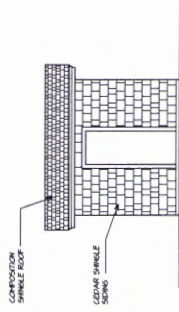
Elevations of Existing
 Accessory Structures

1/4" = 1'-0"

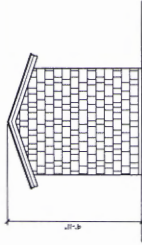
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A0.3

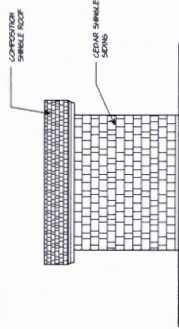
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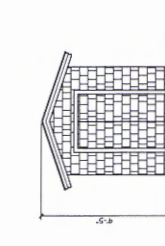
Pumphouse North Elevation



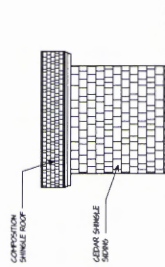
Pumphouse East & West Elevations



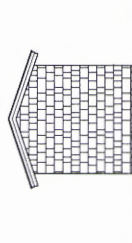
Pumphouse South Elevation



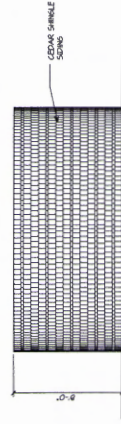
Shed East Elevation



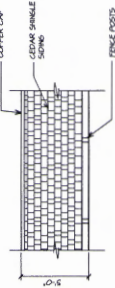
Shed North & South Elevation



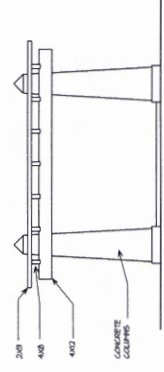
Shed West Elevation



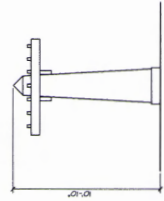
Water Tank Elevation



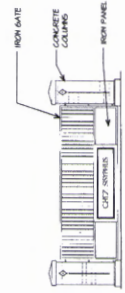
Fences at Garage



Bocce Court Arbor East & West Elevations



Bocce Court Arbor North & South Elevations



Driveway Gate

2 of 5

Gregg K. Kawahara, Architect
 5822 Dresslar Circle
 Livermore, CA 94550
 (925) 449-6182
 Fax (925) 443-4654

Bing Remodel
 37997 Navarro Ridge Road
 Albion, CA

NOTES

1. THE FOLLOWING EXISTING FEATURES HAVE NOT BEEN VERIFIED BY SURVEY AND ARE SHOWN AS APPROXIMATE. VERIFY EXISTING CONDITIONS, DIMENSIONS, AND MATERIALS BEFORE CONSTRUCTION.
2. PROPOSED IMPROVEMENTS SHOWN ON THE SITE PLAN ARE TO BE INSTALLED AT THE FRONT OF THE GARAGE TO SUPPORT THE SHED ROOF. SEE ELEVATIONS.

GRADING QUANTITIES

1. BOUCE COURT	CUT	19 CY
	FILL	13 CY
	BALANCE	13 CY IMPORT

REVISIONS

Description	Date

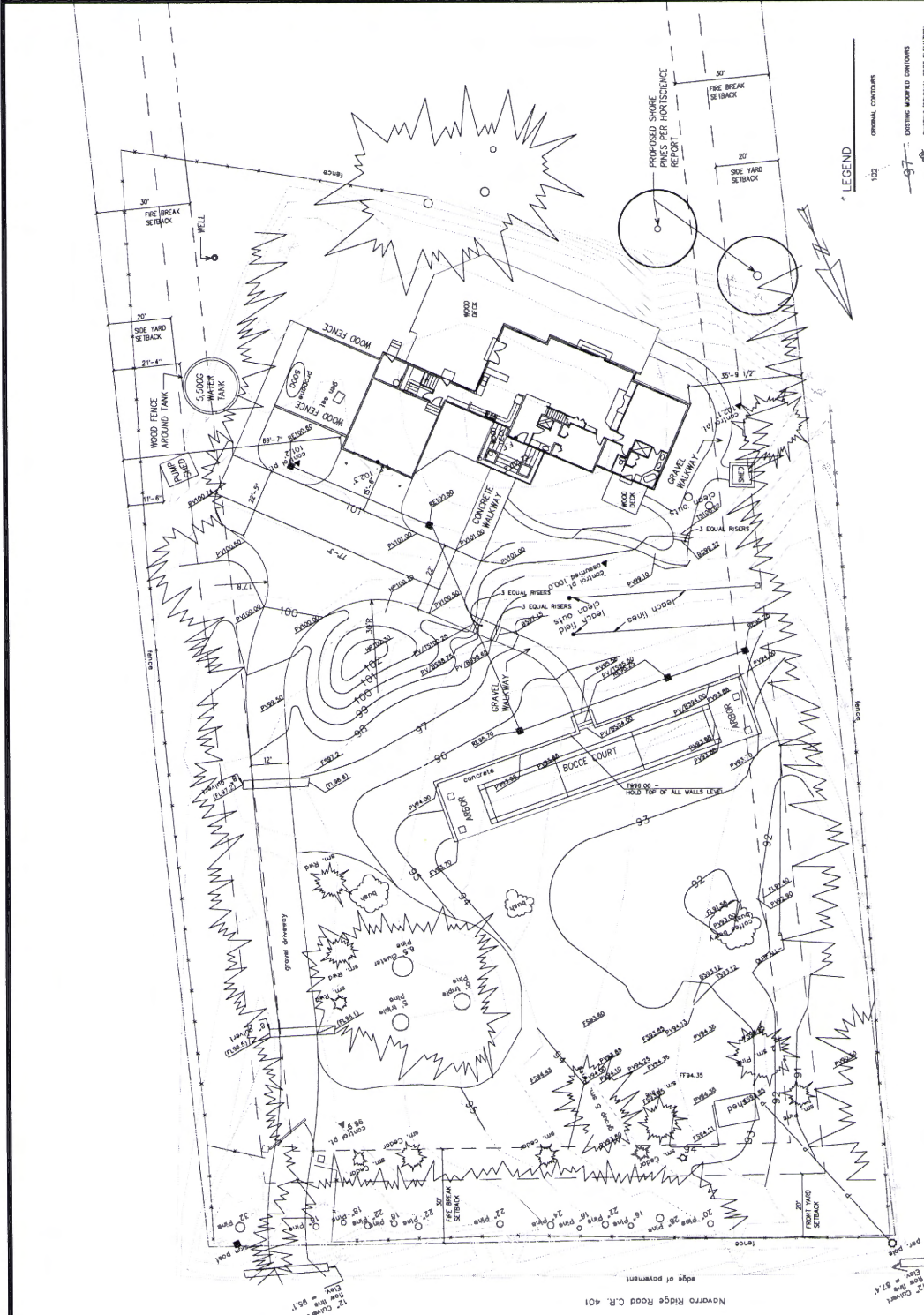
Partial Site Plan

MAP 11-07

Sheet

A0.2

Date 2-25-05



LEGEND

- 1:12 ORIGINAL CONTOURS
- 1:12 EXISTING MARKED CONTOURS
- 1:12 EXISTING/OPTIONAL SPOT ELEVATION
- 1:12 EXISTING MARKED SPOT ELEVATION
- 1:12 DRAIN INLET
- 1:12 STORM DRAIN PIPE
- 1:12 EXISTING OF STAIRS
- 1:12 EXISTING OF PORCH
- 1:12 EXISTING OF GARAGE
- 1:12 EXISTING OF DRIVEWAY
- 1:12 EXISTING OF WALKWAY
- 1:12 EXISTING OF PATIO
- 1:12 EXISTING OF BALCONY

MAP

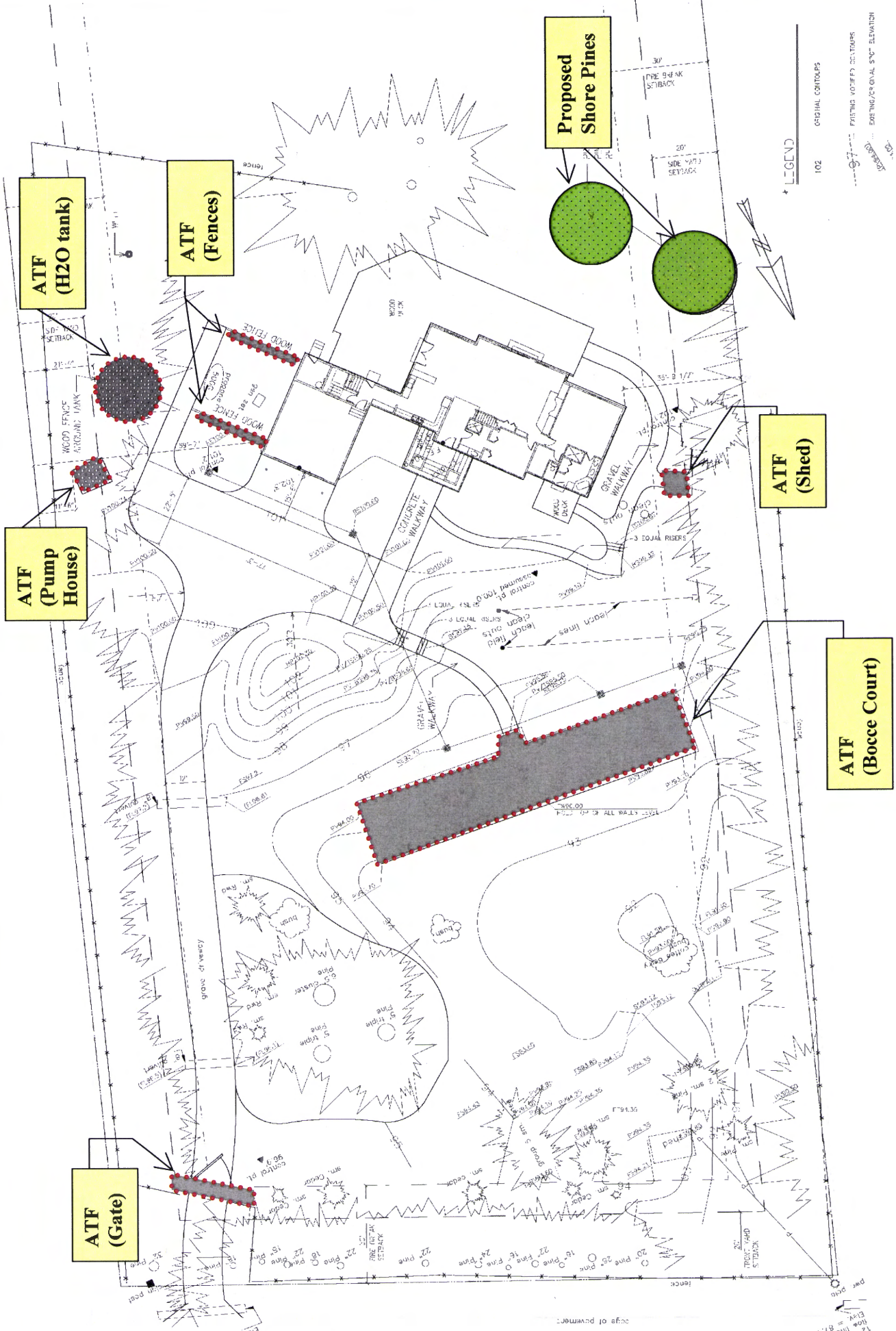
Of the lands of Bing, being a portion of Section 4, Township 15 North, Range 17 West, Mount Diablo Base and Meridian.

Mendocino County
 Scale 1" = 20'

Survey prepared by Richard A. Seale, L.S. 4455
 elevations are assumed

California
 December, 2006

3 of 5



Partial Site Plan modified by Commission staff 2/16/12 from architect's submittal to highlight after-the-fact (ATF) permit requests and proposed tree plantings

495

Neverre Ridge Road C.R. 401

MAP



Existing Garage



Bocce Court: Concrete columns with wooden trellis and low concrete perimeter enclosing a traditional oyster shell base.



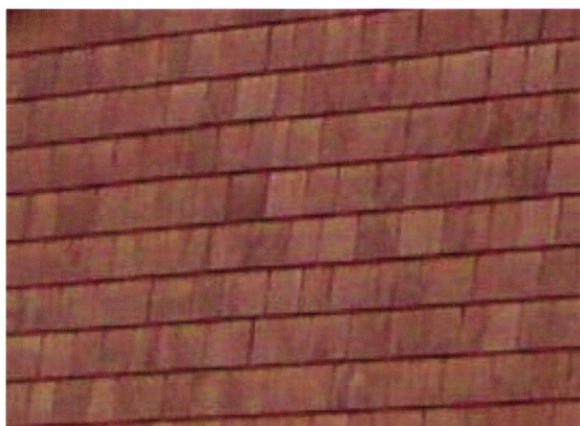
Entry Gate: Concrete columns with iron railing and steel kick plates.



Pump House, Water Tank, Fence: All redwood shingle siding to match existing residence.



Concrete columns: Unpainted.



SIDING: Redwood shingles; Benjamin Moore transparent stain.