

CALIFORNIA COASTAL COMMISSION

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Filed: July 9, 1997
49th Day: August 27, 1997
Staff: Jo Ginsberg
Staff Report: July 30, 1997
Hearing Date: August 14, 1997
Commission Action:

STAFF REPORT: APPEALSUBSTANTIAL ISSUE

LOCAL GOVERNMENT: Mendocino County

DECISION: Approval with Conditions

APPEAL NO.: A-1-MEN-97-46

APPLICANT: DAVID AND KATHRYN RILEY

AGENTS: Ralph Matheson
Rawles, Hinkle, Carter, Behnke & Oglesby

PROJECT LOCATION: 38868 Sedalia Drive, Gualala, Mendocino County;
APN 145-181-01.

PROJECT DESCRIPTION: Modification and renewal of a previously approved permit to construct a three-story single-family residence with an attached garage, driveway, sewer lift pump, drainage system, and grading.

APPELLANT: Julie Verran

SUBSTANTIVE FILE DOCUMENTS: Mendocino County Local Coastal Program; County Permits CDP #06-94 (R/MOD) and #06-94.

SUMMARY OF STAFF RECOMMENDATION:1. SUMMARY OF STAFF RECOMMENDATION: SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeal has been filed, and

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that the Commission hold a de novo hearing, because the appellant has raised a substantial issue with the local government's action and its consistency with the certified LCP.

Mendocino County approved a modification/renewal of a project previously approved in 1992 for construction of a residence and garage on a blufftop lot in Gualala. The appellant contends that the project is not consistent with the County's LCP, and has three main areas of concern: visual impacts; geologic hazards; and public access.

Commission staff believes that the residence, as approved by the County, would not be sited and designed to protect coastal views in the manner required by the policies of the certified LCP. Commission staff thus believes the project, as approved by the County, raises a substantial issue with regard to conformance with the visual and scenic resource policies of the County's LCP. However, staff believes that the appellant's contentions regarding geologic hazards and public access do not raise a substantial issue with regard to conformance with the certified LCP or the public access policies of the Coastal Act.

The Motion to adopt the Staff Recommendation of Substantial Issue is found on Page 4.

2. SUMMARY OF STAFF RECOMMENDATION DE NOVO: APPROVAL WITH CONDITIONS

The staff recommends that the Commission approve with conditions the coastal development permit for the proposed project on the basis that, as conditioned by the Commission, it is consistent with the County's certified LCP and with the public access and public recreation policies of the Coastal Act.

Staff believes the current project, as approved by the County, is inconsistent with the visual and scenic resource policies of the LCP. However, staff believes that if certain special conditions are attached to the permit, the project will be consistent with the County's LCP. Thus the adverse impacts of the project can be mitigated through special conditions. In addition to recommending specific conditions addressing visual impacts, staff is recommending that the Commission attach several other conditions that are similar to conditions the County had attached to its permit to ensure the project's consistency with the certified LCP.

The Motion to adopt the Staff Recommendation of Approval with Conditions is found on Page 13.

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STAFF NOTES:

1. Appeal Process.

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

Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea or within three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff.

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

The subject development is appealable to the Commission because the proposed house is located between the sea and the first public road paralleling the sea, and is also within 300 feet of the mean high tide line and the top of the seaward face of a coastal bluff.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. Unless it is determined that there is no substantial issue, the Commission would continue with a full public hearing on the merits of the project, which may occur at a subsequent meeting. If the Commission were to conduct a de novo hearing on the appeal, because the proposed development is between the first road and the sea, the applicable test for the Commission to consider would be whether the development is in conformity with the certified Local Coastal Program and with the public access and public recreation policies of the Coastal Act.

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The only persons qualified to testify before the Commission on the substantial issue question are the applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing.

2. Filing of Appeal.

The appellant filed an appeal to the Commission in a timely manner on July 9, 1997, subsequent to the County's issuance of the Notice of Final Action, which was received in the Commission's offices on June 27, 1997.

PART ONE - SUBSTANTIAL ISSUE

I. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

Pursuant to Section 30603(b) of the Coastal Act and as discussed in the findings below, the staff recommends that the Commission determine that substantial issue exists with respect to the grounds on which the appeal has been filed. The proper motion is:

MOTION:

I move that the Commission determine that Appeal No. A-1-MEN-97-46 raises NO substantial issue as to conformity with the certified Local Coastal Program with respect to the grounds on which an appeal has been filed pursuant to Section 30603 of the Coastal Act.

Staff recommends a NO vote. To pass the motion, a majority vote of Commissioners present is required. Approval of the motion means that the County permit action is final.

II. Findings and Declarations.

The Commission hereby finds and declares:

A. APPELLANTS' CONTENTIONS

The Commission received from Julie Verran an appeal of the County of Mendocino's decision to approve the project. The project as approved by the County consists of the construction of a three-story, 2,814-square-foot single family residence with an attached 948-square-foot garage/basement, driveway, sewer lift pump, and drainage system on a blufftop lot in Gualala. The

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appellant's contentions are summarized below, and the full text of the contentions are also included as Exhibit No. 8.

The appellant's contentions involve inconsistency with the County's LCP policies regarding visual resources, geologic hazards, and public access, as described below.

1. Visual Resources.

The appellant asserts that the proposed residence is larger than most nearby residences and therefore not in character with surrounding development; and that the residence will be prominently visible from the nearby Gualala Point Regional Park in Sonoma County and from the beach.

2. Geologic Hazards.

The appellant asserts that the subject parcel is affected by landsliding, earthquake hazard, wave action, bluff retreat, and underlying sea caves; that the geotechnical investigation for the project was not complete, does not substantiate the estimated rate of bluff retreat, and that the map included with the geotechnical investigation does not show the cliffs accurately; and that the setbacks for the house and driveway are inadequate.

3. Public Access.

The appellant asserts that there is a heavily traveled footpath on the site from the bottom of the access road to the vegetated edge of the bluff, and that two deeply cut path branches go down onto the rocky part of the bluff. The appellant further asserts that these pathways constitute a traditional fishing access, contrary to the County's conclusion that there is no public access at the subject parcel. Moreover, the appellant asserts that there may be a public prescriptive right to the fishing access.

B. LOCAL GOVERNMENT ACTION

On February 27, 1997, Mendocino County's Coastal Permit Administrator approved with conditions Coastal Development Permit 06-94 (R/MOD). This approval was appealed to the Mendocino County Board of Supervisors, who denied the appeal and approved the project on May 23, 1997. The County then issued a Notice of Final Action on the Coastal Development Permit, which was received by Commission staff on June 27, 1997 (see Exhibit No. 10).

The coastal development permit approved by the County was a renewal/modification of a coastal permit previously approved in 1994, CDP

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06-94. The approval of the renewal/modification incorporated five special conditions of the original permit. Special Condition No. 1 requires that development shall be in compliance with all conditions and observations of the BACE Geotechnical Inc. report dated June 30, 1992, as amended, and shall be incorporated as part of the permit. Special Condition No. 2 requires that development of the site shall be consistent with the recommendations of the Archaeological Study reviewed by the Mendocino County Archaeological Commission. Special Condition No. 3 requires that any vegetation removal other than indicated with the application shall require an amendment to the permit and further archaeological study at that time. Special Condition No. 4 requires that if the Archaeological Commission action requires a revision to the project, the applicant must obtain an amendment to the coastal permit. Special Condition No. 5 requires that no part of the residence or decks shall be located within 35 feet of the blufftop.

C. PROJECT SETTING, DESCRIPTION, AND HISTORY.

1. Project and Site Description.

The subject site is located west of Highway One in Gualala, at the southwesterly terminus of a private road extending from Sedalia Drive. The property, which is situated just northwest of the Gualala River near the edge of a steep coastal bluff, is approximately two acres in size and consists of a very narrow coastal terrace and part of the adjoining hillside. No other homes are located on the terrace. An abandoned railroad roadbed is located within the property, near the northeasterly property boundary, part way up the hillside. Groves of pine trees are located at the southeast and northwest ends of the property. There is no sensitive habitat on the subject parcel.

The proposed development consists of construction of a three-story, 2,814-square-foot single-family residence with an attached 948-square-foot garage/basement, driveway, sewer lift pump system to accommodate public sewer service, and a drainage system that includes freshwater leach lines (see Exhibit Nos. 3-7). The house would be built partly on the terrace and partly on the lower part of the hillside.

2. Project History.

As noted above, the County originally approved a project on the site in 1994. In 1996 the applicant applied to the County for a renewal/modification of the project that proposed a redesign of the house in the same location, including reducing square footage and lowering the height to approximately 28 feet. The original permit is no longer valid. The Coastal Permit Administrator approved the modified project, which was appealed to the Board of Supervisors. The Board denied the appeal, and upheld the CPA's approval.

D. SUBSTANTIAL ISSUE ANALYSIS.

Section 30603(b)(1) of the Coastal Act states:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.

1. Appellants' Contentions.

All the contentions raised in the appeal present potentially valid grounds for appeal in that they allege the project's inconsistency with policies of the certified LCP or with the public access policies of the Coastal Act, as discussed below. In one case, the Commission finds that a substantial issue is raised.

Public Resources Code section 30625(b) states that the Commission shall hear an appeal unless it determines:

"With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603."

As discussed above, the grounds identified in section 30603 for an appeal of a local government action are limited to whether the action taken by the local government conforms to the standards in the LCP and the public access policies found in the Coastal Act. The term substantial issue is not defined in the Coastal Act. The Commission's regulations simply indicate that the Commission will hear an appeal unless it "finds that the appeal raises no significant question." (Cal.Code Regs., tit. 14, section 13115(b).) Even where the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development as approved by the County presents a substantial issue.

a. Visual Resources.

The appellant contends that the proposed house, which is a three-story, 2,814-square-foot single-family residence with an attached 948-square-foot

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garage/basement for a total of 3,762 square feet, is larger than most nearby residences and therefore not in character with surrounding development. The appellant further contends that the proposed residence will be prominently visible from Gualala Point Regional Park in Sonoma County and from the beach, which receive great public use.

Discussion: LUP Policy 3.5-1 states that the scenic and visual qualities of Mendocino County coastal areas shall be considered and protected as a resource of public importance, and that 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.

LUP Policy 3.5-5 states that 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.

Zoning Code Section 20.504.020, Special Communities and Neighborhoods, refers to several communities including Gualala, and sets forth development criteria for those areas. Section 20.504.020(C) states that the scale of new development (building height and bulk) shall be within the scope and character of existing development in the surrounding neighborhood, that new development shall be sited such that public coastal views are protected, and that building materials and exterior colors shall be compatible with those of existing structures.

The proposed development is larger in terms of height and bulk than surrounding residences, and due to its location on the lower coastal terrace near the bluff edge, will be quite visible from many portions of the Gualala Regional Park in Sonoma County to the south, including from the public beach. The south elevation of the house, in particular, will appear massive when viewed from the public park and beach (see Exhibit No. 6). While there are other houses nearby on the bluffs above the subject site that are somewhat visible from the public park and beach, these other houses are all at least partially screened from public view by existing trees, and have large trees behind them creating a backdrop that softens the visual impact. The proposed development would be the only house on the lower terrace, and as it would not be adequately screened by existing trees, it would be very noticeable due to its size and prominent siting on the mostly otherwise undeveloped bluff. The proposed development approved by the County does not include landscaping.

Staff from Sonoma County Regional Parks has visited the building site and assessed the impacts of the proposed residence on the park. Parks staff has expressed the opinion that the "building site and proposed residence is a middle ground view and is visible from most areas of the park on the west side

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of Highway One." Parks staff further recommended that cedar siding with natural stain, dark fiberglass shingle roofing, and native field stone would reduce the visual impacts to the park, and also recommended that an evergreen screen of native trees along the south side of the residence be required to mitigate the visual impacts to the park as a result of the proposed construction (see Exhibit No. 15).

The County did not attach conditions requiring design restrictions or landscape screening, which would have reduced visual impacts on coastal views from the Regional Park, inconsistent with visual policies of the LCP. The Commission finds that the project will have a greater than local impact, as the site is prominently visible from the Gualala Point Regional Park, a major visitor destination which includes the beach at the mouth of the Gualala River. In addition, Mendocino County contains many coastal parks and beaches, both state and local, which are located near residential developments, and the outcome of this decision will have precedential significance for other future residential development that is sited near public parks and beaches. Thus the Commission finds that the project as approved by the County raises a substantial issue with respect to conformance of the approved project with the LCP policies regarding visual and scenic resources.

b. Geologic Hazards.

The appellant contends that the subject parcel is affected by landsliding, earthquake hazard, dangerous wave action, heavy freshwater drainage from the bluffs above during storms, bluff retreat, and underlying sea caves, including a deep one that may extend under the building footprint. The appellant states that the proposed method of controlling storm water drainage (a leach lines) is not mentioned in the LCP and amounts to a test or experiment and is not appropriate for a parcel so close to other houses. The appellant also states that it is her belief that the features of the subject site are indicative of a fault or other area of geologic weakness. The appellant further asserts that the geotechnical investigation for the project is not complete, does not substantiate the estimated rate of bluff retreat or include profiles, and that the map included with the geotechnical investigation does not show the cliffs accurately. The appellant also asserts that the recommended setbacks for the house and driveway are inadequate. The appellant has hired a geologist to review the proposed project and the geotechnical report submitted to the County for the site. This geologist asserts that the geotechnical investigation done by BACE Geotechnical appears to be inadequate (see Exhibit No. 13).

Discussion: LUP Policy 3.4-7 states that the County shall require that new structures be set back a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic

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lifespans (75 years), and includes a setback formula. The retreat rate shall be determined from historical observation (e.g., aerial photographs) and/or from a complete geotechnical investigation.

Policy 3.4-9 states that 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.

Zoning Code Section 20.500.010 states that new development in the coastal zone shall minimize risk to life and property in areas of high geologic hazard; assure structural integrity and stability; and neither create nor contribute significantly to erosion, geologic instability or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Zoning Code Section 20.492.025 states that the acceptability of alternative methods of storm water retention shall be based on appropriate engineering studies, and that 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.

Zoning Code Section 20.500.020.(A)(2) states that 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.

In accordance with LUP Policy 3.4-7, a geotechnical investigation on the subject site was conducted in 1992 by BACE Geotechnical, Inc. BACE also prepared four subsequent addendum letters to the report in 1997, which address additional concerns. The appellant questions the data and conclusions generated by BACE Geotechnical, and makes a number of unsubstantiated assertions regarding the hazards of the subject property. Although the appellant indicates she has hired a geologist to perform an independent evaluation of the geologic hazards associated with the proposed development of the site, no specific evaluation has been submitted to date and any such information provided was not part of the information available to the County when it acted on the local permit.

The Commission finds that the proposed project has been designed in conformity with the recommendations in the geotechnical investigation submitted to the

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County. This report estimates a bluff retreat rate of one inch per year. Applying the County's setback formula, a setback of 6 1/2 feet from the bluff edge would be sufficient to ensure that bluff retreat does not affect the development during the projected 75-year life of the structure. According to the project plans, the proposed residence would be set back 35 feet from the bluff edge and the proposed driveway would be setback at least 15 feet from the bluff edge, consistent with the setback formula. As the proposed project is designed to be consistent with the recommendations of the geotechnical report done for the site, the Commission thus finds that the project as approved by the County does not raise a substantial issue with regard to geologic hazards. The Commission thus concludes that the appeal raises no substantial issue with respect to conformance of the approved project with the LCP policies regarding geologic hazards.

c. Public Access.

The appellant asserts that that there is a heavily traveled footpath on the site from the bottom of the access road to the vegetated edge of the bluff, and that two deeply cut path branches go down onto the rocky part of the bluff, constituting a traditional fishing access where people go down to a rock ledge near the sea cave, contrary to the County's conclusion that there was no public access at the subject parcel. The appellant further asserts that there may be a public prescriptive right to the fishing access.

Discussion: LUP Policy 3.6-22 and Zoning Code Section 20.528.030 state that no development shall be approved on a site which will conflict with easements acquired by the public at large by court decree. Where evidence of historic public use indicates the potential for the existence of prescriptive rights, but such rights have not been judicially determined, the County shall apply research methods described in the Attorney General's "Manual on Implied Dedication and Prescriptive Rights." Where such research indicates the potential existence of prescriptive rights, an access easement shall be required as a condition of permit approval.

Coastal Act Section 30211 states that development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including but not limited to, the use of dry sandy and rocky coastal beaches to the first line of terrestrial vegetation.

According to the County, there is no evidence of public prescriptive use of the subject site, and so the County did not instigate a prescriptive rights survey. Furthermore, although there are some faint pathways on the site, there is no evidence that use of the site has been by anyone other than neighbors or locals. Such use by a limited group of people would not constitute substantial public use that could give rise to prescriptive

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rights. In addition, the proposed development does not interfere with any possible existing public use of the site, as no development is proposed for the portion of the site on which the appellant asserts a prescriptive right may exist. The Commission thus finds that the project as approved by the County does not raise a substantial issue with regard to public access. Therefore, the Commission finds that the appeal raises no substantial issue with respect to conformance of the approved project with the public access policies of the LCP and the Coastal Act.

Conclusion.

The Commission finds that, as discussed above, the appeal raises a substantial issue with respect to conformance of the approved project with the visual and scenic resource policies of the LCP.

PART TWO - DE NOVO ACTION ON APPEAL

Notes

1. Procedure.

If the Commission finds that a locally approved coastal development permit raises a Substantial Issue with respect to the policies of the certified LCP or the public access and public recreation policies of the Coastal Act, the local government's approval no longer governs, and the Commission must consider the merits of the project with the LCP de novo. The Commission may approve, approve with conditions (including conditions different than those imposed by the County), or deny the application.

2. Incorporation of Substantial Issue Findings.

The Commission hereby incorporates by reference the Substantial Issue Findings above.

I. STAFF RECOMMENDATION DE NOVO:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions:

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, is in conformance with the certified Mendocino County LCP, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions: See attached.

III. Special Conditions:

1. Landscaping Plan:

PRIOR TO ISSUANCE of the Coastal Development Permit, the applicant shall submit, for the Executive Director's review and approval, a 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 of drought-tolerant native or naturalized

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trees and/or shrubs along the south side of the residence to minimize the visual impacts to the Gualala Point Regional Park as a result of the proposed construction. No fewer than 10 trees shall be planted on the property. The 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 plan shall specify the type and mature heights of the trees to be planted.

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. The new trees and shrubs shall be planted within 60 days of completion of the project. The applicant shall notify the Executive Director in writing when the trees have been planted, and Commission staff shall verify the planting via a site visit or by examining photographs submitted by the applicant. Any deviation from the approved plans will require an amendment to the permit.

2. Design Restrictions:

All exterior siding and roofing of the proposed structure shall be of natural or natural-appearing materials of dark earthtone colors only. In addition, all exterior materials, including the roof and the windows, shall be non-reflective to minimize glare. Finally, all exterior lights, including any lights attached to the outside of the house, shall be low-wattage, non-reflective, and have a directional cast downward.

3. Final Foundation and Site Drainage Plans:

PRIOR TO ISSUANCE of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director final foundation and site drainage plans for the proposed project. These plans shall be consistent with the recommendations made in the Geotechnical Investigation Report prepared by BACE Geotechnical, Inc. dated June 30, 1992, which was submitted with the application, and with the four addendum letters submitted in 1997. In particular, the plans shall be consistent with the recommendations regarding site grading, construction of the foundation and retaining walls, blufftop setback, and site drainage. Any deviation from the approved plans will require an amendment of this permit.

4. Tree Removal:

This 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. Any future removal of trees shall require a new coastal permit or an amendment to Coastal Permit No. A-1-MEN-97-46.

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5. Archaeological Resources:

If any archaeological, paleontological, or cultural resources are discovered on the project site during construction authorized by this permit, all work that could damage or destroy these resources shall be suspended. The applicant shall then have a qualified archaeologist inspect the project site, determine the nature and significance of the archaeological materials, and, if he or she deems it necessary, develop appropriate mitigation measures using standards of the State Historic Preservation Office.

Should the qualified archaeologist determine that mitigation measures are necessary, the applicant shall apply to the Commission for an amendment to Permit No. A-1-MEN-97-46 requesting that the permit be amended to include the mitigation plan proposed by the qualified archaeologist. The plan shall provide for monitoring, evaluation, protection, and mitigation of archaeological resources on the project site. Should the archaeologist determine that no mitigation measures are necessary, work on the project site may be resumed.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

1. Project and Site Description:

As noted in the Substantial Issue portion of this report, the two-acre subject site is located west of Highway One in Gualala, at the southwesterly terminus of a private road extending from Sedalia Drive. The property, which is situated just northwest of the mouth of the Gualala River near the edge of a steep coastal bluff, consists of a very narrow coastal terrace and part of the adjoining hillside. There are no other homes on the terrace. An abandoned railroad roadbed is located within the property, near the northeasterly property boundary, part way up the hillside. Groves of pine trees are located at the southeast and northwest ends of the property. There is no sensitive habitat on the subject parcel.

The proposed development consists of construction of a three-story, 28-foot-high, 2,814-square-foot single-family residence with an attached 948-square-foot garage/basement, driveway, sewer lift pump system to accommodate public sewer service, and drainage system that includes freshwater leach lines (see Exhibit Nos. 3-7). The house would be built partly on the terrace and partly on the lower part of the hillside.

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2. Visual Resources:

LUP Policy 3.5-1 states that the scenic and visual qualities of Mendocino County coastal areas shall be considered and protected as a resource of public importance, and that 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.

LUP Policy 3.5-5 states that 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.

Zoning Code Section 20.504.020, Special Communities and Neighborhoods, refers to several communities including Gualala, and sets forth development criteria for those areas. Section 20.504.020(C) states that the scale of new development (building height and bulk) shall be within the scope and character of existing development in the surrounding neighborhood, that new development shall be sited such that public coastal views are protected, and that building materials and exterior colors shall be compatible with those of existing structures.

Zoning Code Section 20.504.035(A)(2) states that where possible, all lights shall be shielded or positioned in a manner that will not shine light or allow glare to exceed the boundaries of the parcel on which it is placed.

The proposed development is a total of 3,762 square feet, and is three stories and approximately 28 feet high. The Commission finds that it is larger in terms of height and bulk than many surrounding residences, and due to its location on the lower coastal bluff, will be quite visible from most portions of the Gualala Point Regional Park in Sonoma County to the south, including from the public beach. While there are other houses nearby on the bluffs above the subject site that are somewhat visible from the public park and beach, the proposed development would be the only house on the lower terrace, and would be very noticeable due to its size and prominent location on the virtually undeveloped terrace.

Staff from Sonoma County Regional Parks has visited the building site to assess the impacts of the proposed residence on the park, and recommends that cedar siding with natural stain, dark fiberglass shingle roofing, and native field stone would reduce the visual impacts to the park, and also recommends that an evergreen screen of native trees along the south side of the residence be required to mitigate the visual impacts to the park as a result of the proposed construction (see Exhibit No. 15). Although some trees grow along the hillside portion of the lot, these trees are located too far to the east

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of the proposed house location to effectively screen the house from view from the park.

To reduce the impacts of the proposed development on visual resources, the Commission attaches Special Condition No. 1, which requires that the applicant submit a landscaping plan that provides for the planting of an evergreen screen of drought-tolerant native or naturalized trees and/or shrubs along the south side of the residence to mitigate the visual impacts to the Gualala Point Regional Park as a result of the proposed construction. The submitted plan must 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. While offering screening of the proposed house from vantage points within Gualala Point Regional Park, the required trees will not block views from any other public vantage point including roads, parks, and trails. Therefore, Special Condition No. 1 is consistent with LUP Policy 3.5-5.

The Commission also attaches Special Condition No. 2, which imposes design restrictions, including a requirement that all exterior siding and roofing of the proposed structure shall be of natural or natural-appearing materials of dark earthtone colors only; that all exterior materials, including the roof and the windows, shall be non-reflective to minimize glare; and that all exterior lights, including any lights attached to the outside of the house, shall be low-wattage, non-reflective, and have a directional cast downward. These requirements are consistent with the provisions of Zoning Code Sections 20.504.020(C) and 20.504.035(A)(2).

Since the existing trees on the site provide some softening effects and/or backdrop to minimize visual impacts, the Commission also attaches Special Condition No. 4, which states that this 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, and that any future removal of trees shall require a new coastal permit or an amendment to this permit.

The Commission thus finds that the proposed development, as conditioned, is consistent with LUP Policies 3.5-1 and 3.5-5, and with Zoning Code Sections 20.504.020 and 20.504.035, as coastal views will be protected and visual impacts will be minimized.

3. Geologic Hazards:

LUP Policy 3.4-7 states that the County shall require that new structures be set back a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic lifespans (75 years), and includes a setback formula. The retreat rate shall be determined

DAVID AND KATHRYN RILEY

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from historical observation (e.g., aerial photographs) and/or from a complete geotechnical investigation.

Policy 3.4-9 states that 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.

Zoning Code Section 20.500.010 states that new development in the coastal zone shall minimize risk to life and property in areas of high geologic hazard; assure structural integrity and stability; and neither create nor contribute significantly to erosion, geologic instability or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Zoning Code Section 20.492.025 states that the acceptability of alternative methods of storm water retention shall be based on appropriate engineering studies, and that 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.

Zoning Code Section 20.500.020.(A)(2) states that 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.

The appellant has raised several concerns regarding potential geologic hazards on the subject site, including landsliding, bluff retreat, seismic hazards, drainage, and sea caves. A geotechnical report has been prepared for the site by BACE Geotechnical, Inc. in 1992, supplemented by four addendum letters in 1997 to address additional concerns. The report indicates that the site can safely support the proposed project, and makes a number of recommendations regarding development on the site.

Based on a review of the site and of historic photographs, the report stipulates a bluff retreat rate of one inch per year. Applying the County's setback formula (setback = structure life X retreat rate), the necessary blufftop setback would be 6 1/2 feet. The proposed residence is set back 35 feet from the edge of the bluff, and the driveway is set back 15 feet, which meet the County's requirements. To address drainage, the applicant has proposed a drainage system incorporating freshwater leach lines and vertical risers above the drain pipes, which BACE Geotechnical has indicated will adequately drain the site. This arrangement is in lieu of collecting and

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pipng the runoff from the site down the face of the bluff, which would be inconsistent with policies of the LCP. The applicant is also employing a licensed civil engineer to do the structural design of the residence, and has indicated that the structural design will include lateral design calculations to resist seismic and wind forces according to the adopted Uniform Building Code of Mendocino County. The landslide to which the appellant refers is a cut slope failure within the old railroad roadbed, and is located approximately 80 feet from the lower end of the existing driveway; thus runoff from the driveway does not come near the landslide. BACE Geotechnical asserts that continued landslide movements will be completely contained within the railroad roadbed, which consists of a deep trench at his location. Thus, the driveway and proposed residence will have no effect upon the landslide and the landslide will have no effect upon the proposed property improvements.

The Commission concludes that the proposed project is consistent with the recommendations in the geotechnical report, and that the project can safely be constructed without posing geologic hazards.

To ensure that the project will not create any geologic hazards, the Commission has attached Special Condition No. 2, which requires that the applicant submit final foundation and site drainage plans that incorporate all recommendations of the geotechnical report. The Commission thus finds that the proposed project, as conditioned, is consistent with LUP Policy 3.4-7, 3.4-9, and Zoning Code Sections 20.492.025 and 20.500.020.(A)(2).

4. Public Access:

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

The Mendocino County LUP includes a number of policies regarding standards for providing and maintaining public access. Policy 3.6-9 states that offers to

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dedicate an easement shall be required in connection with new development for all areas designated on the land use plan maps. Policy 3.6-28 states that new development on parcels containing the accessways identified on the land use maps shall include an irrevocable offer to dedicate an easement. LUP Policy 3.6-22 and Zoning Code Section 20.528.030 state that no development shall be approved on a site which will conflict with easements acquired by the public at large by court decree. Where evidence of historic public use indicates the potential for the existence of prescriptive rights, but such rights have not been judicially determined, the County shall apply research methods described in the Attorney General's "Manual on Implied Dedication and Prescriptive Rights." Where such research indicates the potential existence of prescriptive rights, an access easement shall be required as a condition of permit approval.

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

The subject site is located west of the first public road and sits atop a steep coastal bluff. The County's land use maps do not designate the subject parcel for public access, and there does not appear to be any safe vertical access to the rocky shore down the steep bluffs. According to the County, there is no evidence of public prescriptive use of the subject site, and so the County did not instigate a prescriptive rights survey. Although there are some faint pathways on the site, there is no evidence that use of the site has been by anyone other than neighbors or locals. Such use by a limited group of people would not constitute substantial public use that could give rise to prescriptive rights. In addition, the proposed development does not interfere with any possible existing public use of the site, as no development is proposed for the portion of the site on which the appellant asserts a prescriptive right may exist. Since the proposed development will not increase significantly the demand for public access to the shoreline and will have no other impacts on existing or potential public access, the Commission finds that the proposed project, which does not include provision of public access, is consistent with the public access policies of the Coastal Act and the County's LCP.

5. Planning and Locating New Development:

Policy 3.9-1 of the Mendocino County LUP states that new development shall be located in or in close proximity to existing areas able to accommodate it, and shall be regulated to prevent any significant adverse effects, either individually or cumulatively, on coastal resources. Policy 3.8-1 of the LUP requires consideration of Highway One capacity and availability of water and

DAVID AND KATHRYN RILEY

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sewage disposal when considering applications for Coastal Development Permits. The intent of this policy is to channel development toward more urbanized areas where services are provided and potential impacts to resources are minimized.

The subject property is zoned in the County's LCP as Rural Residential-5 acre minimum [Suburban Residential] (RR:L-5 [SR]), meaning that there may be one parcel for every 5 acres, or one parcel for every 6,000 square feet within water and sewer service areas. The subject parcel, which is approximately two acres in size and is served by community water and sewer services, is a legal, conforming lot.

The Commission finds that the proposed project is consistent with LUP Policies 3.9-1 and 3.8-1 to the extent that the parcel is able to accommodate the proposed development and that adequate services are available.

6. Archaeological/Cultural Resources:

LUP Policy 3.5-10 requires the County to review all development permits to ensure that proposed projects will not adversely affect existing archaeological and paleontological resources, and that a field survey should take place prior to approval of any proposed development within an area of known or probable archaeological or paleontological significance. The policy also requires that proposed projects incorporate reasonable mitigation measures so the development will not adversely affect existing archaeological/paleontological resources.

The cultural resources evaluation done for the site by Archaeological Resource Service indicates that the parcel includes a portion of an old railroad bed. The old railroad bed parallels the coastline and formerly provided access to nearby Robinson's Landing and the old cargo chute dating from the mid-1860's that is located on a rocky promontory at the edge of the bluff on an adjacent parcel. As a result, there is the potential for the presence of cultural resources on the site. The survey found no signs of prehistoric shellfish remains or artifacts, but expressed a concern that such remains might be uncovered during grading or construction.

To address this concern, the Commission attaches Special Condition No. 5, which requires that if any archaeological, paleontological, or cultural resources are discovered on the project site during construction, all work that could damage or destroy these resources shall be suspended, and the applicant must then have a qualified archaeologist inspect the project site, determine the nature and significance of the archaeological materials, and, if deemed necessary, develop appropriate mitigation measures using standards of the State Historic Preservation Office.

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The Commission finds that the proposed project, as conditioned, is consistent with LUP Policy 3.5-10, as archaeological resources will be protected.

7. California Environmental Quality Act (CEQA).

Section 13096 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) 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 impact which the activity may have on the environment.

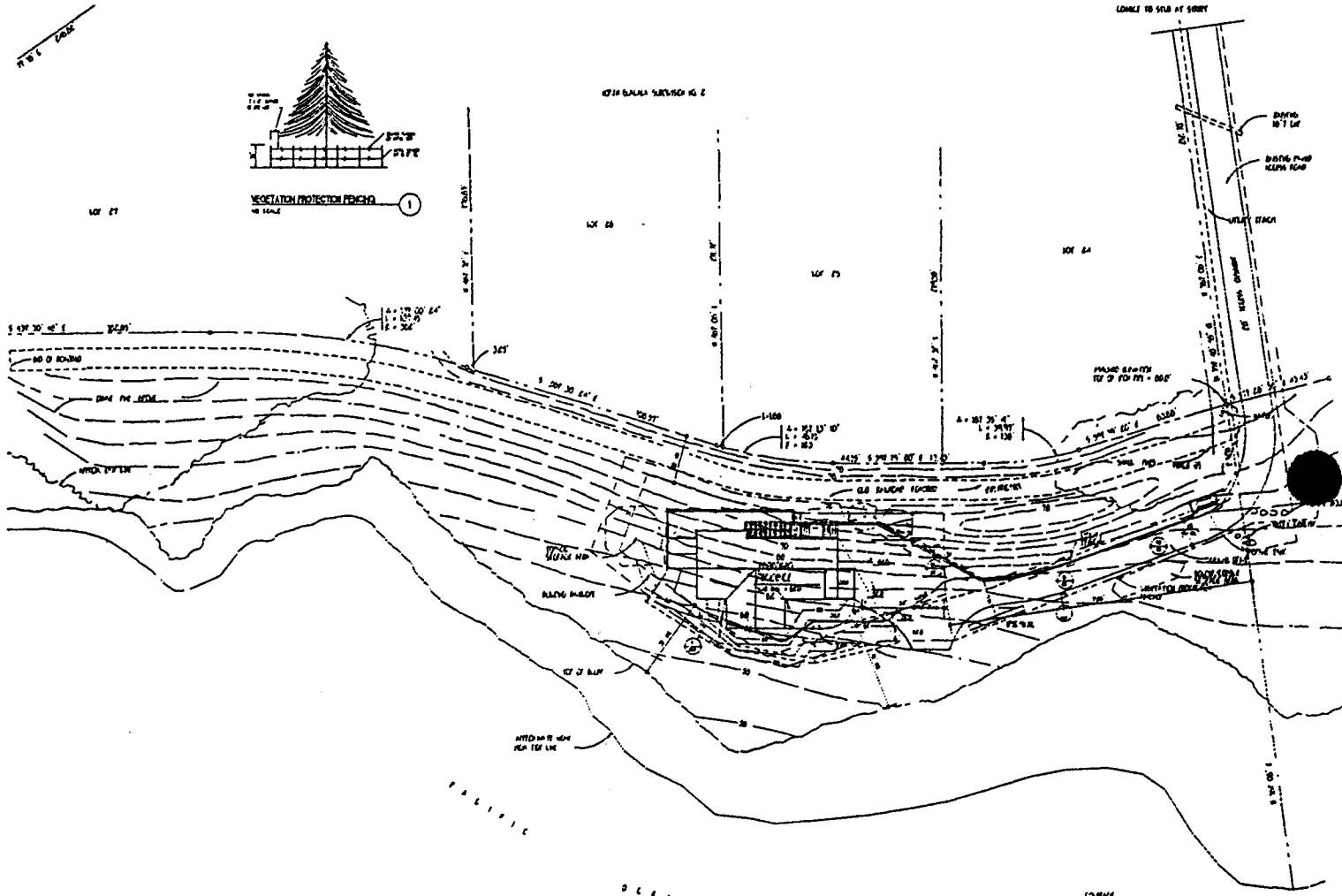
The proposed project has been conditioned in order to be found consistent with the policies of the Mendocino County LCP and the public access and recreation policies of the Coastal Act. Mitigation measures, including requirements that (1) a landscaping plan be submitted that will provide for the planting of an evergreen screen of drought-tolerant native or naturalized trees and/or shrubs along the south side of the residence to minimize the visual impacts to the Gualala Point Regional Park; (2) design restrictions be imposed to minimize visual impacts of the project; (3) that the applicant shall submit final foundation and site drainage plans for the proposed project that are consistent with the recommendations made in the geotechnical report; (4) that any future removal of trees shall require a new coastal permit or an amendment to this permit, other than those required to be removed to meet the fire safety regulations of the California Department of Forestry and Fire Protection; and (5) that if any archaeological resources are discovered on the site during construction, all work that could damage or destroy these resources shall be suspended, and, if deemed necessary by a qualified archaeologist, appropriate mitigation measures must be developed, will minimize all adverse environmental impacts.

As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act and to conform to CEQA.

ATTACHMENT A

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. Compliance. All development 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.
4. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. 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.
7. 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.



SITE PLAN
 1" = 20'

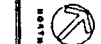
LEGEND

SET OF BLUP TO PROPERTY LINE - 75' WIDE	75'
BLUP TO PROPERTY LINE - 15' WIDE	15'
BLUP TO PROPERTY LINE - 15' WIDE	15'
BLUP TO PROPERTY LINE - 15' WIDE	15'
BLUP TO PROPERTY LINE - 15' WIDE	15'
BLUP TO PROPERTY LINE - 15' WIDE	15'

LOCAL DESCRIPTION
 100' WIDE BLUP

EXHIBIT NO.	3
APPLICATION NO.	A-1-MEN-97-46
RILEY	
Site Plan	

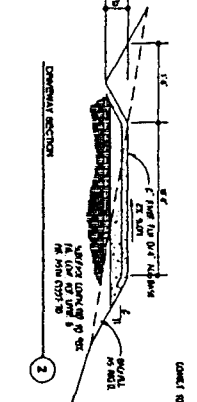
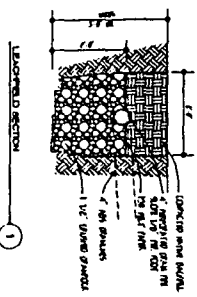
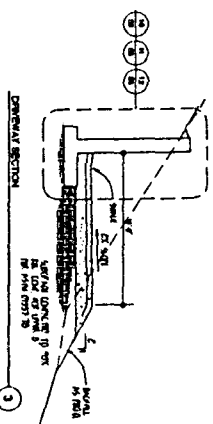
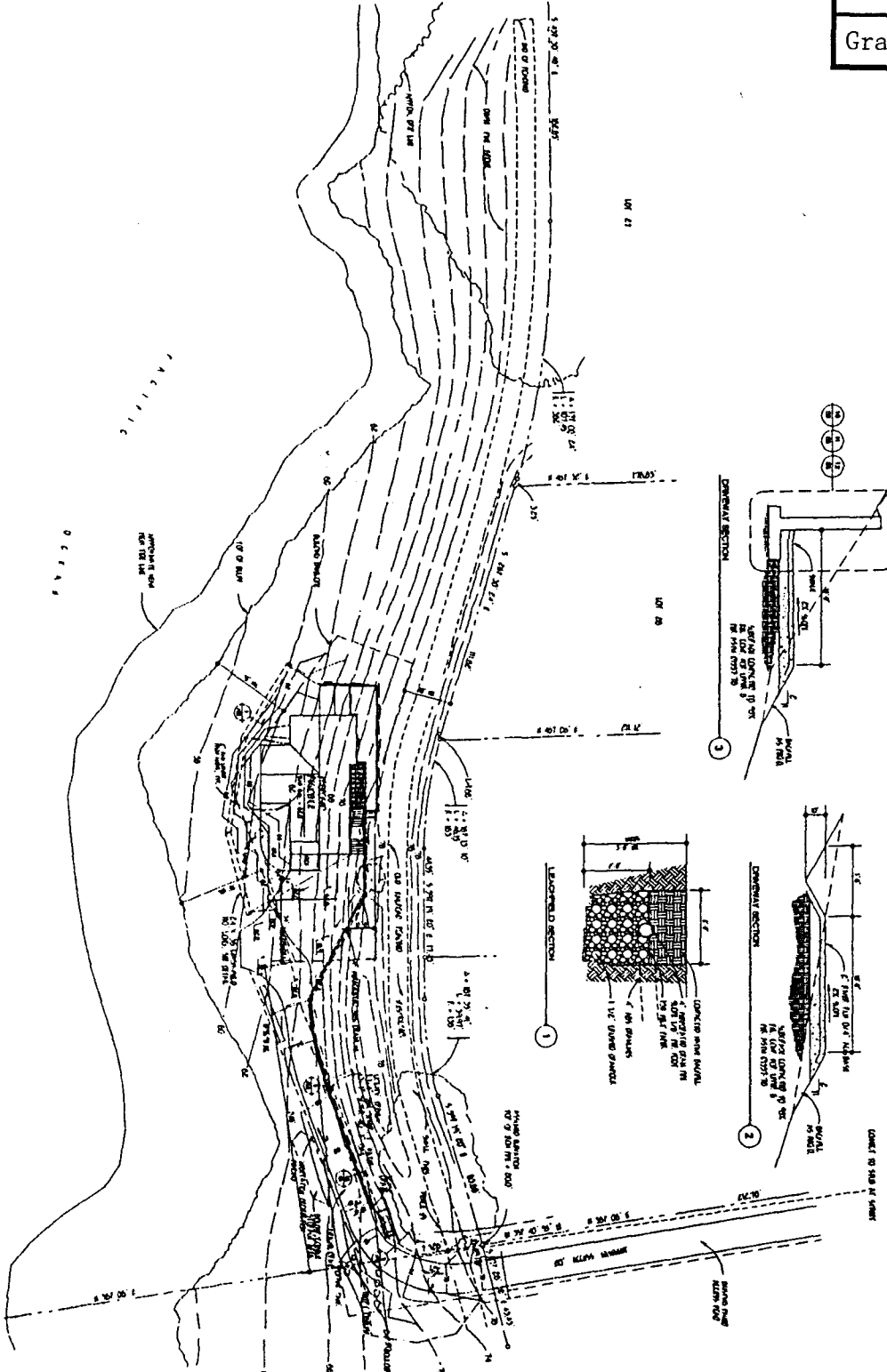
GRADING & DRAINAGE PLAN



- GENERAL NOTES
1. ALL EXISTING AND PROPOSED GRADING SHALL BE SHOWN ON THIS PLAN.
 2. ALL EXISTING AND PROPOSED DRAINAGE SHALL BE SHOWN ON THIS PLAN.
 3. ALL EXISTING AND PROPOSED DRAINAGE SHALL BE SHOWN ON THIS PLAN.
 4. ALL EXISTING AND PROPOSED DRAINAGE SHALL BE SHOWN ON THIS PLAN.
 5. ALL EXISTING AND PROPOSED DRAINAGE SHALL BE SHOWN ON THIS PLAN.

LEGEND

- LEGEND
- EXISTING GRADE
 - PROPOSED GRADE
 - EXISTING DRAINAGE
 - PROPOSED DRAINAGE
 - EXISTING LOT LINES
 - PROPOSED LOT LINES
 - EXISTING BUILDING FOOTPRINT
 - PROPOSED BUILDING FOOTPRINT
 - EXISTING DRIVEWAY
 - PROPOSED DRIVEWAY
 - EXISTING WALKWAY
 - PROPOSED WALKWAY
 - EXISTING FENCE
 - PROPOSED FENCE
 - EXISTING POLE
 - PROPOSED POLE
 - EXISTING UTILITY
 - PROPOSED UTILITY
 - EXISTING EASEMENT
 - PROPOSED EASEMENT
 - EXISTING RIGHT-OF-WAY
 - PROPOSED RIGHT-OF-WAY
 - EXISTING ADJACENT PROPERTY
 - PROPOSED ADJACENT PROPERTY
 - EXISTING ADJACENT ROAD
 - PROPOSED ADJACENT ROAD
 - EXISTING ADJACENT RAILROAD
 - PROPOSED ADJACENT RAILROAD
 - EXISTING ADJACENT AIRPORT
 - PROPOSED ADJACENT AIRPORT
 - EXISTING ADJACENT WATERWAY
 - PROPOSED ADJACENT WATERWAY
 - EXISTING ADJACENT MOUNTAIN
 - PROPOSED ADJACENT MOUNTAIN
 - EXISTING ADJACENT DESERT
 - PROPOSED ADJACENT DESERT
 - EXISTING ADJACENT TOWN
 - PROPOSED ADJACENT TOWN
 - EXISTING ADJACENT VILLAGE
 - PROPOSED ADJACENT VILLAGE
 - EXISTING ADJACENT CITY
 - PROPOSED ADJACENT CITY
 - EXISTING ADJACENT COUNTY
 - PROPOSED ADJACENT COUNTY
 - EXISTING ADJACENT STATE
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 - EXISTING ADJACENT COUNTRY
 - PROPOSED ADJACENT COUNTRY
 - EXISTING ADJACENT WORLD
 - PROPOSED ADJACENT WORLD

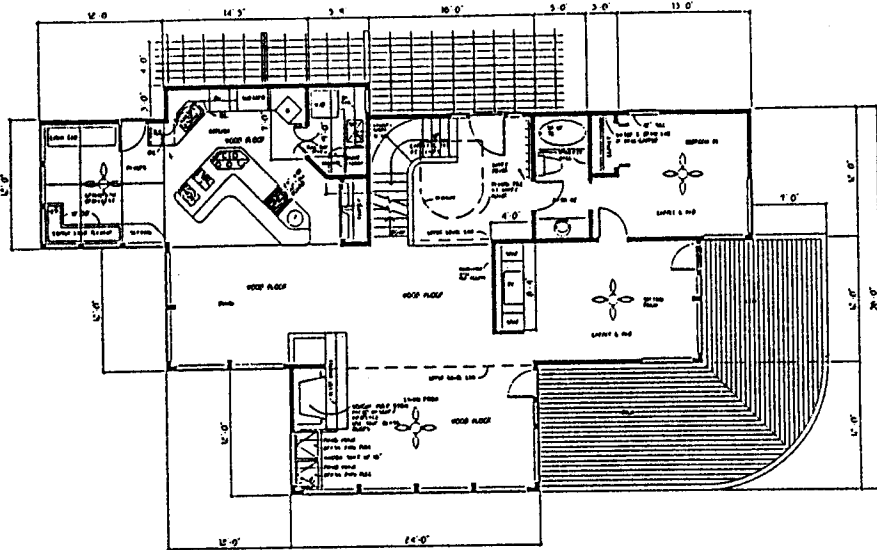


RILEY RESIDENCE

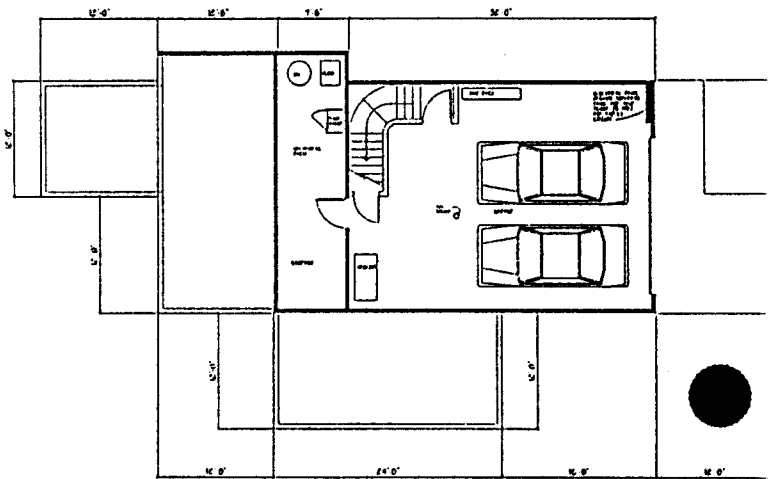
STRUCTURAL ENGINEER
KURT MANNING

P.O. BOX 361 GUNNDA, CALIFORNIA
(707) 604-3712

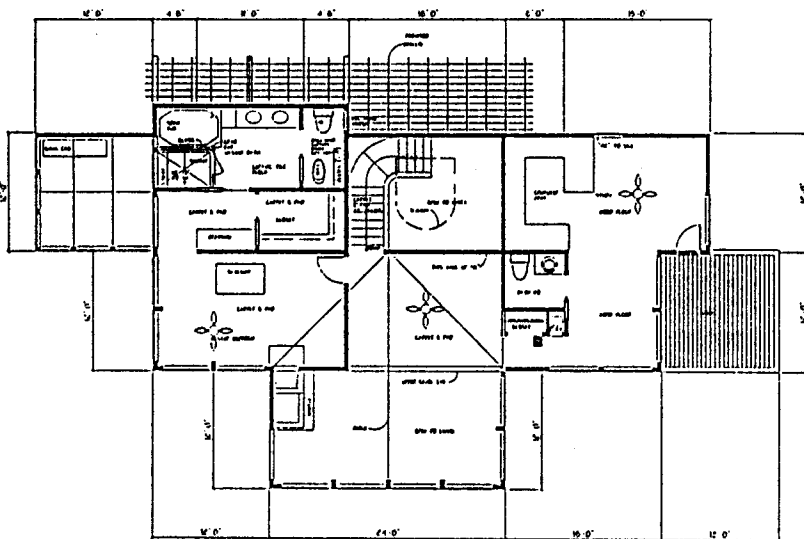
A12
SCALE
DATE



main floor plan



garage/basement plan



upper level plan

EXHIBIT NO. 5

APPLICATION NO.
A-1-MEN-97-46

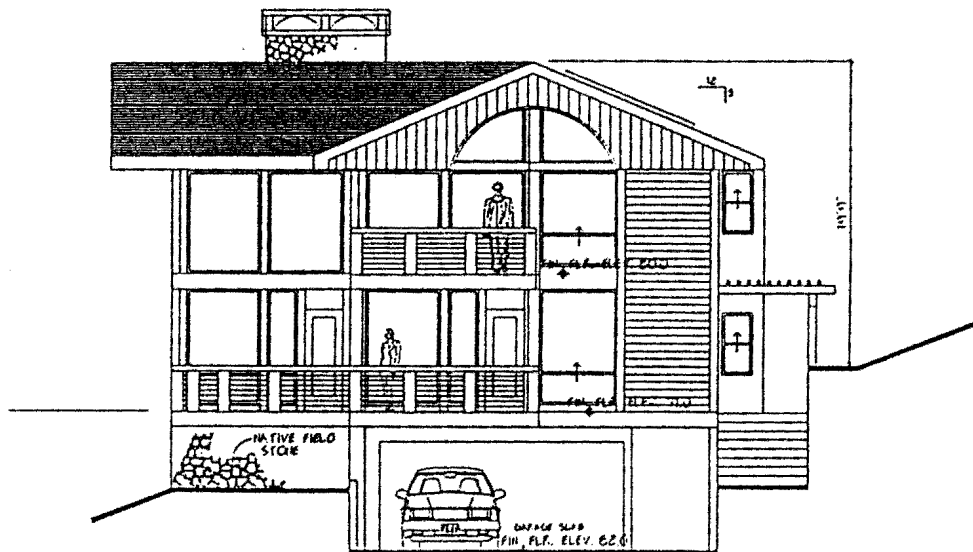
RILEY

Floor Plans



north elevation

scale 1/4"=1'-0"



south elevation

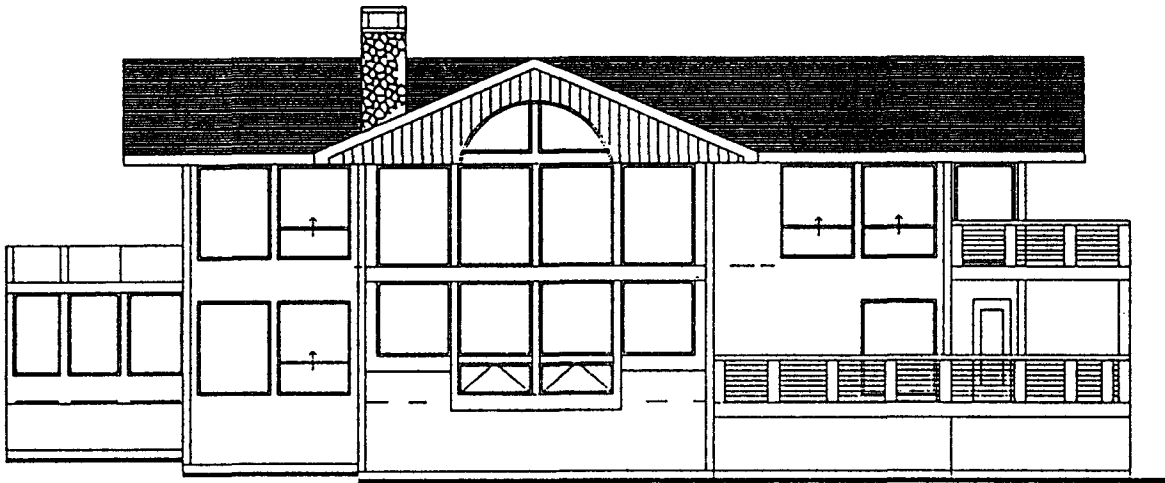
scale 1/4"=1'-0"

EXHIBIT NO. 6

APPLICATION NO.
A-1-MEN-97-46

RILEY

Elevation Plans



west elevation

scale 1/4"=1'-0"

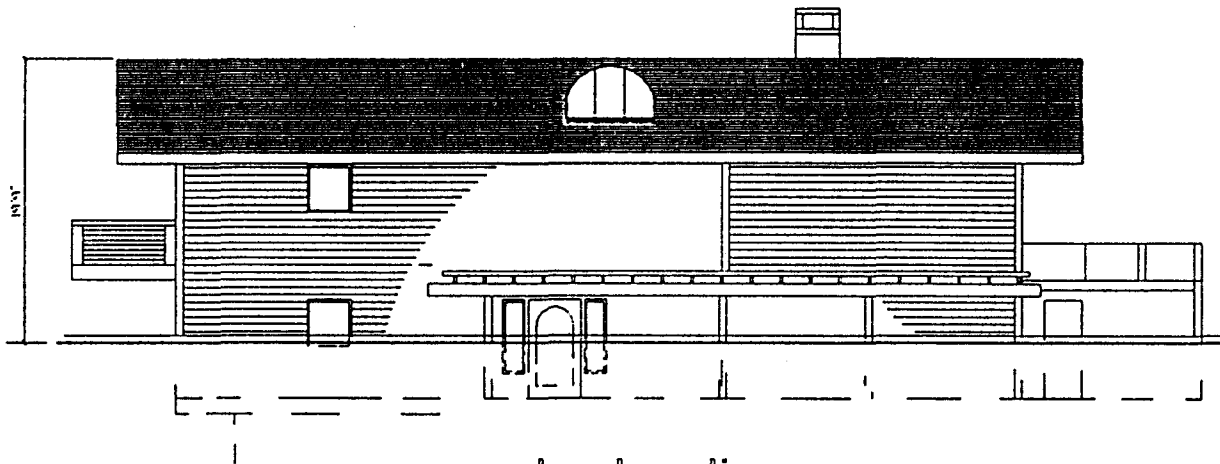
SIDING

1X6 HORIZONTAL CEDAR SIDING L&P SIDING RESAWN FACE

ROOFING

ELF CLASS A ROOF SHALE BLACK COLOR

NOTE: ALL EXTERIOR LIGHTING TO BE SHIELDED WITH BOARDED LIGHT OR DOWNLIGHT RECESSED SPOTS.



east elevation

scale 1/4"=1'-0"

EXHIBIT NO. 7

APPLICATION NO.
A-1-MEN-97-46

RILEY

Elevation Plans

CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA

FREMONT, SUITE 2000

SAN FRANCISCO, CA 94105-2219

(415) 904-5260

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

JULIE VERBAN
P.O. Box 382
Gualala, CA 95445 (707) 884-3740
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: Mendocino County
2. Brief description of development being appealed: A three-story single family dwelling including a garage on the lower level, driveway & grading, located on a long, narrow bluff-top parcel south of Robinson Creek & north of the mouth of the Gualala River.
3. Development's location (street address, assessor's parcel no., cross street, etc.): 38868 Sedalia Dr., reached from Sedalia Dr. from a private access road serving two other parcels: APN 145-181-1.
4. Description of decision being appealed:
 - a. Approval; no special conditions: _____
 - b. Approval with special conditions: X
 - c. 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-97-46

DATE FILED: _____

DISTRICT: _____

H5: 4/88

EXHIBIT NO.	8
APPLICATION NO.	A-1-MEN-97-46
RILEY	
Appeal	

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

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

- a. Planning Director/Zoning Administrator c. Planning Commission
b. ☒ City Council/Board of Supervisors d. Other

6. Date of local government's decision: _____

7. Local government's file number (if any): CDP 6-94

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:

Mr. + Mrs. David C. Riley
c/o Ralph Matheson (Agent), P.O. Box 321, Guadalupe, CA 95445

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) <u>Mr. + Mrs. Kevin Bartholomew</u>
<u>P.O. Box 948</u>
<u>Guadalupe, CA 95445</u> | (5) <u>Lynn Sellinger</u>
<u>327 Richardson Dr.</u>
<u>Mill Valley, CA 94941</u> |
| (2) <u>Mr. + Mrs. Ben Stillman</u>
<u>11165 La Paloma Dr.</u>
<u>Cupertino, CA 95014</u> | (6) <u>Mr. + Mrs. William Hoffman</u>
<u>Los Altos, CA</u> |
| (3) <u>Heirs of Iris Stout</u>
<u>P.O. Box 255</u>
<u>Guadalupe, CA 95445</u> | (7) <u>Linda + Henry Bennett</u>
<u>710 Oak Ave.</u>
<u>Davis, CA 95616</u> |
| (4) <u>Don Brittsan</u>
<u>850 Soto Ave.</u>
<u>Novato, CA 94947</u> | (8) <u>Others from County list</u> |

SECTION IV. Reasons Supporting This Appeal

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, which continues on the next page.

EXHIBIT NO.

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APPLICATION NO.

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RILEY

Appeal

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

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.)

1) The County Supervisors did not place special conditions requested by Sonoma Co. Regional Parks 2) Geotech report was incomplete, done in 1992 + not updated to reflect changing conditions especially related to landsliding, bluff retreat and sea caves. 3) Bluff retreat locally is considered to be 6-7" per year. 1992 Geotech report claimed 1" per year. Engineer claimed at 6/23/97 hearing a bluff retreat rate of 1" per decade. This is incorrect. 4) no hazard's Spec. Coastal Act Section 30253; Mendocino Coastal Element 3.4 Hazards Management, esp. 3.4-7, 75-year economic life determining setback. See 6-page attachment

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

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

Julia A. Vroman
Signature of Appellant(s) or
Authorized Agent

Date July 7, 1997

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 _____

EXHIBIT NO.	8
APPLICATION NO.	A-1-MEN-97-46
RILEY	
Appeal	

Julie Verran Coastal Commission Appeal of Mendo. Co. Riley CDP 6-94, Due by July

Many of the photographs I am submitting show a weathered wooden post on an offshore rock. This is a marker to help orient the photos. It is all that is left of Robinson's Landing, a chute for loading lumber onto coastal schooners located just north of the mouth of the Gualala River.

Robinson's Landing was started in the late 19th Century and abandoned by 1914 because shifting sands, high onshore winter winds and wild waves made it too dangerous. Timber was loaded instead at Bourn's Landing, a few miles north, served by a railroad from the mill at Mill Bend on the Gualala River estuary/lagoon. (See enclosed pages from book by Annette White Parks.) The railroad was later abandoned and the trestle over Robinson Gulch burned.

In 1960 the North Gualala Subdivision was recorded with the county. The railroad easement was not subdivided and had no parcel numbers. A notation on the parcel map North Gualala Subdivision No. 2 (Case 2, Drawer 1, Page 56) dated 1960 shows this notation on what is now the subject parcel: "Easterly boundary former Gualala Mill R/W." The present access road to the subject parcel divides N.G. Subd. #2 from N. G. Subd. #4. A notation on the parcel map North Gualala Subdivision No. 4 (Case 2, Drawer 28, Page 78) dated 1976 states: "The County Engineer recommends property owners seek the advice of a Registered Civil Engineer before undertaking any lot grading, installation of septic systems, or construction of footings or foundations."

"This area is subject to earthquake shock."

The same parcel map also shows the site of the current access road to the subject parcel as "20' wide access easement in Book 865, Page 175, M. C. R. & drainage easement." This map also bears the notation, "All natural draws and creeks constitute a drainage easement, width of said easement being determined by the high water mark plus 5 feet or a minimum width of 20 feet."

In 1969 my parents bought the lot designated on the above-referenced parcel map as Lot No. 25 in N. G. Subd. #4 (Now APN 145-181-3). They were told then that the subject parcel (Now APN 145-181-1) would never be built upon because of hazards. They built the house I now own in 1971/2. Houses which still stand on adjacent parcels were already there. My parents chose neutral, non-reflective building materials and left a screen of trees around the house to avoid intruding on the view from Gualala Point County Park.

My parents lived in Gualala full time. My mother worked in real estate and property management including Sea Ranch and the southern Mendocino coast. My father did free-lance writing. He published articles on coastal subjects in the Chronicle Sunday supplement California Living, a book about the fog on San Francisco Bay, and in 1978 Presidio Press published his book about Gualala, a sort of manual for people who wanted to move to the Mendocino coast. Both my parents were descended from mining families, and because of their work in Gualala, which involved talking with a lot of people, they knew more about the sort of issues that I raise in this appeal than the average person would.

Both my parents were well aware of the hazards affecting their home. My mother believed the sea cave beneath the subject parcel extended under our property, that is, about 100 feet deep. In his book, my father wrote about considering hazards in selecting a coastal building site on pp. 6 and 7, and mentioned the sea cave at the end. (See attachments.)

The booming and shaking in the winter from waves inside this cave shakes and rattles the existing homes. How much more would it shake a home on the subject parcel, built right over the cave? More to the point, how long will such percussive wave action take to produce a cave-in or subsidence? Such an event will threaten the existing homes and could destroy a home on the subject parcel.

In 1980 Ms. Parks' book on the history of Gualala was published. It emphasizes the hazards of Robinson's Landing. (See attached photocopies from book, compared with June, 1997, photos taken from the same places to show bluff face retreat.)

Both these books were written at a time when the railroad easement was regarded as unbuildable.

Until 1989 the old railroad easement from the mouth of the Gualala River to Robinson Gulch remained in timber company ownership that was not willing to sell. In 1989 two parcels were created by Certificate of Compliance CC 44-89. Successors of Empire Redwood offered the northern parcel for sale to the owners of the four houses on the bluff above, to be held by them as tenants in common. My late father was willing to buy, but it required all four to go in on it, and some could not.

The parcel was bought by the Rileys who are now applying to build a three-story house of about 4,000 square feet. They had a geotechnical report prepared by BACE Geotech dated 1992. On the first page the report states that it is assumed the house will be of

Verran appeal of Mendo Co. CDP 6-94, p. 2.

standard post and beam construction. It also states that sea cave roof collapse, while unlikely, is a possibility. It also states that there is some fill in the area of the railroad grade. I agree with these statements which relate to my concerns.

I do not agree with the bluff retreat rate of one inch per year stated in the report; nor with the revised bluff retreat rate of one inch per decade stated by Erik Ohlson June 23 at the Supervisors' meeting.

In 1993 my father's neighbor to the north, John Stout, wrote a letter to the county expressing concerns relating to the subject parcel and citing my father as sharing these concerns. (See copy.)

In 1994, the applicants applied for a permit for a three-story log-built home. I opposed it before then-Coastal Permit Administrator Gary Berrigan, on public viewshed from Gualala Point County Park, hazards, and poor provision for drainage down the access road. Berrigan approved the permit telling me I could not challenge it without going after the BACE firm's license, because the house plan conformed to the geotech report. This is not a fair burden for an ordinary citizen.

When in 1997 I obtained a copy of the geotech report I found it specified standard construction. A log-built home is many times heavier, an important difference when the site is a fragile bluff top. Therefore, the permit was approved in 1994 in error.

I could not appeal at that time because I held my father's Durable Power of Attorney for Health Care, he was recovering from cancer surgery and he needed me to keep the household going.

The applicants found it infeasible to construct a log-built home on the site, and applied for a renewed permit for a house of about the same size, but of standard construction and designed by Ralph Matheson, who also designed my parents' house and that of Ray and Florence Van de Water across the cove on Coral Court.

Applicants' permit was approved by Mendocino County Coastal Permit Administrator Ray Hall on February 27, 1997, as an extension of the 1994 permit. This was incorrect since that permit had been granted in error and did not conform to the geotech report. The 1997 application should have been treated as a new one. In light of landslides which damaged structures in 1995 and 1997 on Coral Court, just north of the subject parcel, planning staff should have required a full update to the 1992 geotech report before the matter came before the Coastal Permit Administrator, but they only required a brief statement that nothing had changed.

I attended the February 27, 1997, hearing in Fort Bragg, but was delayed by family matters and highway construction, so I gave Mr. Matheson one copy of my letter opposing the permit, and another to Mr. Hall, who read it into the record.

A few days later, I got a call from my neighbor to the south, Ben Stillman, asking whether the permit had been approved and asking if I could take a look at his landslide. (See photos.) That was the first I knew of this landslide, which appears to have occurred during the January, 1997, storms. I appealed CDP 6-94 to the Board of Supervisors.

Before the Supervisors heard my appeal, I took the matter to the Gualala Municipal Advisory Council as a non-agenda item. The GMAC is an advisory body to the Mendocino County Board of Supervisors on planning matters. As part of my job as general assignment reporter for the weekly Independent Coast Observer I have covered GMAC since mid-1994.

GMAC does not make recommendations on residences unless a zoning variance is sought, but they did advise me that the geotech report for the subject parcel is public record, and that the 35-foot setback it called for should apply to the proposed driveway as well as the residence. The geotech report recommended a 35-foot setback although it claimed a one-inch per year bluff retreat rate.

The Mendocino County Board of Supervisors heard my appeal on March 24 and continued it until June 23, to get more information on public views from the county park, drainage, and other matters. On June 23 they approved CDP 6-94 without conditions, denying my appeal.

I am appealing to the Coastal Commission because I believe the parcel, though served by water and sewer, remains unbuildable through multiple hazards, and because the Mendocino Supervisors failed to add mild conditions requested by the Sonoma County Regional Parks to help preserve the viewshed of Gualala Point Regional Park. The Supervisors also failed to add conditions responding to the hazards. In addition, there is a traditional fishing access on the subject parcel used by local people and visitors.

Public Views: The main thrust of the June 23 presentation to the Supervisors by designer Ralph Matheson and attorney Jared Carter was to avoid the conditions requested by Sonoma County to protect the public views from Gualala Point Regional Park. Though they said applicants would be reluctantly willing to comply with such conditions, they would be burdensome. They showed a large panoramic photograph of the commercial area of Gualala as seen from the park visitor center. Compared to the downtown commercial buildings,

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especially the inns, the proposed residence would be a minor view element, () said.

The proposed house would be in the size range of most commercial buildings in Gualala, and larger than most residences. The district Supervisor and board Chair, Charles Peterson, said that downtown Gualala already looks so bad that there is little view to protect.

This was incorrect. When the Local Coastal Plan was formed, downtown Gualala was designated as appropriate for visitor-serving facilities, to keep such facilities from the coastline north of the downtown. Some of the inn buildings are indeed large and have problems that stem from lack of county oversight during their planning and construction. For example, one of the inns encroaches on a downtown street, causing problems on local and county levels.

In-filling built-up areas to preserve green space between them is a sound planning policy and should not be used to allow compromise of such green space, especially when it is in the viewshed of a park.

The visitor center near Highway 1 and downtown Gualala is not the primary goal of park visitors; the beach is, so views from there are significant. The beach is much closer to the subject parcel than the visitor center.

The visitor center is staffed by volunteers and is open only part time. I see people on the beach throughout the daylight hours, even in winter. Since 1994 I have seen a great increase in public use of the beach.

Failure of the Supervisors to add the Sonoma County conditions to the permit, based on the June 23 presentation by applicants' agents, was incorrect.

Hazards: The subject parcel is affected by landsliding, earthquake hazard, wave action, bluff retreat and underlying sea caves, including a deep one that may extend under the building footprint. These hazards which affect the subject parcel would threaten the houses above it even if no-one ever built there. Though the houses pre-date the Coastal Act, their owners have a right to the 75-year economic life for those houses that is a benchmark in the county's coastal planning.

Mendocino County General Plan Coastal Element, 3.4 Hazards Management, cites Coastal Act Section 30253. "New development shall:

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

If the applicant's house is built as now proposed, the economic life of those houses, now about 30 to 35 years old, will be unlikely to extend another 40 years. The brunt of the hazards will surely fall first on anyone who builds on the subject parcel.

Coastal Element Policies: Hazards

"3.4-7 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 protection works. Adequate setback distances will be determined from information derived from the required geologic investigation and from the following setback formula:

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

The retreat rate shall be determined from historical observation (e.g. aerial photographs) and/or from a complete geotechnical investigation."

The geotechnical investigation for this permit was not complete. It was done in 1992, and only updated by letter in 1997, following what must have been a cursory look at the site, since they didn't spot the landslide. The map used was the same as the 1992 map and did not show any bluff retreat in the five year period. The map does not show the cliffs accurately. It shows a conventional curved line which does not reflect the ragged rock faces that show on the aerial photographs which I purchased from Pacific Aerial Surveys.

At the June 23 Supervisors meeting Olsborg did present a revised map showing the landslide and sea caves. The caves were not placed accurately but were drawn as if they opened from the inaccurate conventional line on the map. The caves and landslide locations appeared to be drawn based on a low-level oblique aerial photograph.

A complete report would use new technology developed since the 1992 investigations and would place the caves accurately, show the real cliff configuration, and include the depth of each cave, not just question marks on some of them. A complete report would include the depth below the surface of the roof of the cave that appears to extend under the building footprint. It would also include a cliff retreat rate taking into account the rockfall which occurred during the 1995/6 winter around the mouth of the confirmed cave, which is located

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just south of the salient point of rock in front of my house.

Geologist Ted Konigsmark, in his book *Geology of Sea Ranch*, says the standard bluff retreat is seven inches per year. Sea Ranch is just on the other side of the river from Gualala. A complete report would state what unusual geological feature allows the subject parcel to have the retreat rate of one inch per decade claimed by Olsborg. The geotech report states the parcel is based on sandstone. It is just north of the mouth of the Gualala River. During and after rainstorms, the river discharges swift-moving roiling brown water laden with sand, gravel and woody debris past the cliffs of the subject parcel. This is likely to increase the rate of cliff retreat, not slow it to less than the standard rate. Except occasionally following heavy storms, there is no beach in front of the subject parcel.

Coastal Element 3.4 HAZARDS MANAGEMENT, p.72. "Erosion. Beach erosion by wind and waves, surface runoff, and landslides are continuing occurrences. These processes cause coastal retreat, although their impact varies in different areas. Beaches protect dunes and bluffs, so the reduction of beach area increases the erosion rate of the dunes or bluffs. Runoff and human activities also can increase the rate of cliff retreat. Local geology rather than the littoral processes determine the amount of potential erosion. Building setbacks necessary to protect development along the coast should be based on the specific characteristics of the site."

The subject parcel is crossed by two natural draws which carry winter runoff. One is the access road, which is also a drainage easement as shown on the parcel map. The other lies between the Stout and Brittsan houses. Where each of these draws meets the bluff edge, bluff retreat is greater than on other parts of the parcel.

I have aerial photos dated 1953, 1965, 1992 and 1996. The 1992 and 1996 photos show the access road/drainage easement. (See copies enclosed.) By comparing them, I find the bluff has retreated during that time period within the range of 6 to 7 inches per year. The overall rate of retreat is unlikely to be less than the seven-inch local average. The setback for a parcel with this average retreat rate would be about 44 feet.

This setback, applied to the driveway, would leave no room. Where the driveway would have to pass the narrowest part, the parcel is only about that wide. The house could only be approached by a footpath.

The zoning of the parcel is RR-5 (SR).

Mendocino County Zoning Code, Coastal Zone. Chapter 20.384, SR-Suburban Residential District: Sec. 20,384.030 Minimum Front and Rear Yards for SR Districts. Twenty (20) feet each. (Ord. No. 3785 (part), adopted 1991.

With a 44-foot setback and a 20-foot back yard, there would not be enough room for such a large house.

Landsliding. As part of my job with the newspaper, I have observed and photographed the damaging Coral Court slides. The parcel which borders the subject parcel on the north is the Hoffman property located on Coral Court. The 1995 Coral Court slide took out the Adshade and Trunnell garages, one of which had a motor home inside, and swept them into the sea. A color photo of that slide ran on the front page of the Santa Rosa Press Democrat. The neighbors cooperated on extensive remediation work. A second, apparently unrelated slide, occurred in 1997. Mud from this slide blocked the runoff coming down the steep street, shooting it past the Trunnell house on the west side of the street, undermining the deck and foundation while people were sleeping inside. (See b&w photos.) The house where this slide occurred, the Pierpont house, was red-tagged. Other houses required a lot of inspection by the county and may have been red-tagged at one time or another.

My concern is that construction on the subject parcel could cause a similar situation on Sedalia Drive which could damage several properties including mine. The slide which now affects the Stillman and Riley properties looks very like the January, 1997 one on Coral Court. Right now there is only a fragile bank of fill from the railroad grade between the toe of that slide and the narrowest place a driveway would have to pass. If the bank is removed, recurrent sliding could go straight off the bluff into the ocean, and on the uphill side potentially endangering the foundations of the Stillman house and my house.

The railroad grade, built about 100 years ago, may be an example of incorrectly graded cuts and fills mentioned below. The bluff it cuts into is steep and has a number of large rocks which could become detached and impact the subject parcel.

Coastal Element 3.4 Hazards Management, Landsliding, p. 72: "The main factors contributing to landslides are loose or weakly consolidated rock or soils, steep slopes, and water. Human influences include septic tank systems, excessive irrigation, and poorly constructed or incorrectly graded cuts and fills. The potential for landslides is high in most of the coastal zone; slides most frequently occur along road cuts, steep valleys and stream canyons, and along coastal cliffs. They are particularly common in the San Andreas fault zone along the Garcia and Gualala Rivers."

Coastal Element, Appendix 3. Geotechnical evaluation requirements, p. A3-2:

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"Landsliding. Because of the high potential for landsliding in almost all of the coastal zone, all development plans should undergo a preliminary evaluation of landsliding potential. The effect of the development on the landslide potential must be taken into account, because slides can result from excavation, drainage changes, and deforestation. If landslide conditions exist and cannot be avoided, positive stabilization measures should be taken to mitigate the hazard."

Wave Action and Drainage. Located at the mouth of a river with no beach, exposed to winter storms, the subject parcel is one of those dangerous places where waves cascade upwards, even unpredictably on calm days. Many times, while seated in the dining area of my home well back from the windows, I have seen winter waves cascade as high as the deck railing, about 100 feet above the mean high tide line; higher than the roof-line of the proposed house. Driftwood lands on the subject parcel. Because of river runoff from extensive timberlands, the waves there have a greater freight of driftwood than in most places.

Sea water from cascading waves adds to heavy freshwater drainage from the bluffs above during storms. Water runs down along both sides and down the pavement of the access road to the parcel. Much of it runs down the footpath to the traditional fishing access. Storm water also accumulates in the railroad grade. The whole parcel becomes saturated.

BACE proposes a leach field system for storm water drainage. That was one of the issues on which the Supervisors continued my appeal. On June 23, when asked if any such systems have been built in Mendocino county, Olsborg replied that BACE has recommended one or two, but that he doesn't know if they were built. This response was incomplete. The geotech reports, building permits if any, etc. for these prior projects are matters of public record. BACE should have told the Supervisors whether these storm water leach fields were in use, where they were, how their sites compared with the subject parcel, and how they were working. The number of such systems they have recommended which are in use in other counties would also have been appropriate information.

Mendocino County Zoning Code, Coastal Zone, Sec. 20.492.025 Runoff Standards. "(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."

This section does not mention the proposed method. Its use on the subject parcel would amount to a test or experiment; not appropriate for a parcel with other houses so close. The proposed method might satisfy (G) of the same section, but BACE did not provide enough information for the Supervisors to approve the permit.

"(G) Subsurface drainage devices shall be provided in areas having a high water table and to intercept seepage that would adversely affect slope stability, building foundations, or create undesirable wetness."

The subject parcel may be wet enough, and subject to enough wave action to trigger the hazard provisions requiring the structure to be elevated. (MCZC Coastal Zone Sec. 20.420.060 Coastal High Hazard Area.)

Possible Fault. One worrisome aspect of the January, 1997, slide is that the top of it lines up with the area of greatest retreat of the vegetated bluff top. These two features then line up with a cliff overhang or cave indicated on the BACE map provided at the June 23 Supervisors meeting. I said at that meeting that such a line-up of features may indicate a fault or other area of geologic weakness. A complete geotech report would explain this line-up. If it is a fault trace, the county should apply:

MCZC Coastal Zone Sec. 20.500.020 Geologic Hazards - siting and land use restrictions. (A)

Faults. "(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."

Conduct of County. The conduct of Mendocino County deprived me, as a private citizen and adjacent property owner who had paid a \$635 appeal fee, of a level playing field. When the agenda for the June 23 meeting came out, it showed that the public hearing on my appeal was closed. I called the office of the Clerk of the board to request that it be re-opened so other concerned contiguous landowners could speak. The staff person I spoke to said that I could just ask the Chair to re-open the hearing at the meeting. She assured me that he usually does so if asked.

When I asked on June 23, I was told the Chair could not re-open the public hearing because it had not been noticed. But my original request was made more than the 72 hours before the meeting needed for notice. Thus, because I was not sure whether the hearing was re-opened, I did not recruit people to speak on behalf of my

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appeal. Even so, Mr. and Mrs. William Hoffman, who own the property to the north of the subject parcel, drove all the way from Los Altos in support of my appeal. Mr. Hoffman, who is an attorney, could not speak; had I retained his services, he could have spoken, but not as an affected landowner. The applicants had an agent, an attorney, and an engineer present to speak for them. Public appeal processes are meant to allow the public the right to speak.

Attorney Jared Carter's final statement was that my parents had gained a financial advantage by purchasing their property with a parcel approved for building in front of it. I was allowed to rebut and said that there was no approved parcel in front of their property until 1989, 20 years after they bought it. Chairman Peterson asked Coastal Permit Administrator Ray Hall if this was true. Hall said he didn't know and would have to look it up but couldn't do so then.

This matter has been before the coastal permit administrator since the first of the year. If he still didn't know basic information from the parcel map, he did not know enough to approve the permit February 27, and the Supervisors upheld that approval June 23 without sufficient knowledge of the facts to do so.

Over the course of the March and June meetings, both coastal Supervisors, Patti Campbell and Charles Peterson, said many things showing that they have a good understanding of coastal hazards and know what happens to houses when these hazards kick in. Before they voted to deny my appeal, Supervisor Peterson asked the County Counsel if the county could be held liable for approving the permit if the hazards later caused damage. He then warned the applicants' agent that they will have to accept the hazards and deal with them. The board voted unanimously to deny my appeal, adding no hazard conditions to the permit.

This showed a cavalier attitude inappropriate in elected officials. Red-tagging costs the county. The attitude does appear to reflect that of local people, many of whom have told me that applicants will not be able to build because of the obvious hazards, or that if they build, "We can watch it fall in."

Supervisor Peterson said more than once that parcels formerly considered unbuildable are now the most sought-after. Supervisor Campbell said on March 24 that people who buy such parcels should build to suit the special characteristics of the land, not to suit a life-style. I was glad she said this, because it expressed the heart of my concerns.

The Coastal Commission should see to it that extra attention is paid to any construction on formerly unbuildable parcels, and that they remain unbuildable if hazards warrant.

After my appeal June 23, the Supervisors took a break. During the break I saw a member of county staff give a copy of the material I had submitted for that meeting, three pages including a color photocopy of the 1996 aerial photo I had purchased, to applicants' engineer. No money changed hands. When I asked the same staff member if I could buy photocopies of material submitted that day by applicants' agent, she said no, adding, "Why don't you pop in tomorrow." Driving from Gualala over the mountains to Ukiah, doing business with the county, and driving back takes a minimum of five hours. I did have to make the trip to Ukiah that Friday to pick up a two-page copy of the minutes showing the action on my appeal to the Board. I was told I would have to drive to Fort Bragg to get a copy of the list of concerned individuals to whom I must submit copies of my appeal to the Coastal Commission.

Public Access. County staff reports said there was no public access at the subject parcel. There is a heavily-travelled footpath, which shows on the 1996 aerial photo, from the bottom of the access road to the vegetated edge of the bluff. Two deeply-cut path branches go down onto the rocky part of the bluff. This is a traditional fishing access where people go down to a rock ledge near the sea cave.

There used to be a trail along the bluffs within the railroad easement. People who lived along the easement used the trail to walk to town and for fishing access. I used it for some years. I observed a small plaque on the north side of Robinson Gulch stating that the easement was the property of Empire Redwood and permission to pass was revokable at any time, so I assumed there was no public prescriptive right. A house was built on the river bluff part of the easement, blocking the trail. After the access road to the newly-created parcels was built, ca. 1991, people started using that road to reach the fishing access on the subject parcel. There is a good chance that there is now a public prescriptive right to that fishing access which users could establish. Native Americans may have used this access for a long time.

Conclusion: There are substantial issues here which the Coastal Commission should look at. Please hear my appeal. Additional material I will send later will include more material about the main sea cave, letters from people familiar with the issue, material from county files, expert opinion if needed, and press cuttings.

Copies of attachments available on request.

EXHIBIT NO.	8
APPLICATION NO.	A-1-MEN-97-46
RILEY	
Appeal	



1-MEN-96-363

RAYMOND HALL
DIRECTOR

TELEPHONE
(707) 964-5379

COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES

MAILING ADDRESS:
143 WEST SPRUCE STREET
FORT BRAGG, CA 95437

NOTICE OF FINAL ACTION

Date Sent: June 25, 1997

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

CASE#: CDP #06-94 (R/MOD)
DATE FILED: 5/29/96
OWNER: David C. Riley
APPLICANT: Ralph Matheson
REQUEST: Renewal and modification to previously approved permit to construct a three story single family dwelling including a garage on the lower floor, driveway and grading to accommodate the development. The modification is for a redesigned house in the originally approved location.
LOCATION: At the southwesterly terminus of a private road extending from Sedalia Drive approximately 700' W of Highway One in Gualala at 38868 Sedalia Drive (APN 145-181-01).

PROJECT COORDINATOR: Gary Berrigan

HEARING DATE: 2/27/97

APPROVING AUTHORITY: Coastal Permit Administrator

ACTION:

☒ APPROVED WITH CONDITIONS

APPEAL HEARING DATE: 6/23/97

APPELLATE AUTHORITY: Board of Supervisors

ACTION: DENIED APPEAL; PERMIT APPROVED PER 2/27/97 ACTION

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

The project was 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. 9

APPLICATION NO.
A-1-MEN-97-46

RILEY

County Notice of
Final Action

RECEIVED
JUN 27 1997

CALIFORNIA
COASTAL COMMISSION

STAFF REPORT (COASTAL DEVELOPMENT
STANDARD PERMIT

JP #06-94 (R/MOD)
February 27, 1997
CPA-1

EXHIBIT NO. 10
APPLICATION NO. A-1-MEN-97-46
RILEY
County Staff Report

OWNER: David C. Riley
520 Edgehill Drive
Gibsonia PA 15044

AGENT: Ralph Matheson
Box 321
Gualala, CA 95445

REQUEST: Renewal and modification to previously approved permit to construct a three story single family dwelling including a garage on the lower floor, driveway and grading to accommodate the development. The modification is for a redesigned house in the originally approved location.

LOCATION: At the southwesterly terminus of a private road extending from Sedalia Drive approximately 700' westerly of Highway One in Gualala at 38868 Sedalia Drive (APN 145-181-01).

APPEALABLE AREA: Yes

PERMIT TYPE: Standard

TOTAL ACREAGE: 1.04 acres

ZONING: RR:L-5

ADJACENT ZONING: North: RR:L-5
East: RR:L-5
South: Ocean
West: Ocean

GENERAL PLAN: RR-5 [SR]

EXISTING USES: Vacant

SURROUNDING LAND USES: Residential, vacant, Pacific Ocean

SUPERVISORIAL DISTRICT: 5

GOVT CODE 65950 DATE: August 4, 1997

ENVIRONMENTAL DETERMINATION: Categorically Exempt Class 3(a)

OTHER RELATED APPLICATIONS: CDP #06-94

BACKGROUND: The applicant proposes to renew and modify a previously approved coastal development permit. When the original coastal permit was heard, there was public opposition to the application. Concerns cited were related to bluff stability and visual impacts. The proposed modification to the design of the structure is, in staff's opinion, less visually intrusive than the original proposal. Overall height has been reduced by 6 to 10 feet, and the design is more in character with other development in the area. Staff considers the modification to be immaterial, but is processing the request as a material change because of previous opposition to the project.

PROJECT DESCRIPTION: The applicant proposes to modify the design of a three story single family residence. The proposed structure would have a 948 square foot garage/basement on the lower level, with second and third level living areas of 1800 square feet each. The residence would be located in the same location as the original. All other site improvements would remain the same, including the driveway, sewer lift pump station, public water and utility connections, and drainage system. The following discussion addresses only those issues raised by the proposed modification. All other issues of the original staff report remain, and the report is attached as Exhibit E.

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 proposed siting of the single family residence continues to maintain required setbacks and height limits of the zoning district.

Hazards: A geotechnical report was prepared for the original project by BACE Geotechnical. The revised plans have been reviewed by BACE, and the firm also has revisited the site. BACE determined that there were no changed circumstances that would require modification of their previous recommendations.

Visual Resources: The site is not in a designated Highly Scenic Area, and is not subject to the more stringent visual policies of the LCP. The redesigned structure would be 6-10 feet lower in height than the originally approved residence, and also would have less bulk. The design is more in scale with surrounding development. The parcel is very constrained due to its size and configuration, and there are no alternative siting options. Exterior lighting will be shielded and/or recessed; exterior siding will be 1" x 6 horizontal cedar; roofing will be black composition. The modified design is more consistent with Section 20.504.020 (B & C) of the zoning code.

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

FINDINGS:

- (1) The proposed development and proposed modifications are in conformity with the certified Local Coastal Program; and
- (2) The proposed development and proposed modifications will be provided with adequate utilities, access roads, drainage and other necessary facilities; and
- (3) The proposed development and proposed modifications are 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 and proposed modifications, 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 and proposed modifications 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.
- (7) The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and Coastal Element of the General Plan.

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 (10) 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 one year after the effective date except where construction and

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or 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. Except as modified herein, all Standard and Special Conditions of CDP #06-94 shall remain in force and effect.

Staff Report Prepared By:

Date: 2-12-97



Gary Berrigan
Coastal Planner

Attachments: Exhibit A - Location Map
Exhibit B - Site Plan
Exhibit C - Floor Plans
Exhibit D - Elevations
Exhibit E - Original Staff Report

Appeal Period: 10 days
Appeal Fee: \$635

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RILEY

County Staff Report

OWNER: David C. Riley
520 Edgehill Dr.
Gibsonia PA 15044

AGENT: Hart Engineering Group, Inc.
William Hammers
11105 Donner Pass Rd.
Truckee CA 96161

REQUEST: Proposal to construct a three story
single family dwelling including a
garage on the lower floor, driveway
and grading to accommodate the
development.

LOCATION: Situated at the southwesterly terminus
of a private road extending from
Sedalia Drive approximately 700'
westerly of South Highway One in
Gualala, specifically at 38868 Sedalia
Drive AP# 145-181-01

APPEALABLE AREA: Yes

PERMIT TYPE: Standard

TOTAL ACREAGE: 1.04

ZONING: RR:L-5 [SR]

ADJACENT ZONING: North: RR:L-5 [SR]
East: RR:L-5 [SR]
South: Ocean
West: Ocean

GENERAL PLAN: RR-5 (SR)

EXISTING USES: Vacant

SURROUNDING LAND USES: Residential, vacant, ocean

SUPERVISORIAL DISTRICT: 5

GOVT CODE 65950 DATE: October 1, 1994

ENVIRONMENTAL DETERMINATION: Categorically Exempt Class 1

OTHER RELATED APPLICATIONS: None

PROJECT DESCRIPTION: Proposal to construct a three story approximately 3800
square foot four bedroom single family dwelling along with a driveway to the
site and decking along three sides of the dwelling. A sewer lift pump system
is proposed to accommodate public sewer service for this site. Public water,
and sewer service is available to the site through the Gualala Community
Services District and Gualala Water Company. The proposed structure will be a
constructed of dimensional logs and cedar siding with a clear preservative
coating. The bottom floor will have a stone veneer. A black state roof, and
wood framed windows, doors and wood decking materials are proposed.

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: Single family residences are Principal Permitted Uses in the RR:L
-5 Zoning district. The project adjoins residential lands to the north, south
and east and the ocean to the south and west. The dwelling is shown
maintaining setbacks in compliance with the zoning district. Additional
setbacks are addressed under the Hazards section regarding bluff top setbacks.

Site inspections conducted by County staff January 7, and March 26, 1994 revealed the following:

The site maintains a downward slope towards the bluffs. The former railroad bed close to the westerly property line appears to be weathered and overgrown with vegetation with a few timbers but no tracks remaining. A large stand of pines exists on the northerly portion of the site near the creek with no visible riparian habitat from the building site. A small stand of pines exists adjacent to the southerly property line. The bluff appears to drop off steeply at the bluff edge towards the water with no sandy beach area below.

This proposal will maintain a building height of 31' 2" whereas the maximum height within the RR:L-5 (SR) Rural Residential Zoning District is 35'. Staff notes that the adjacent residences to the east maintain two story construction. Additionally, although this is a three story structure it will be "hunkered" into the hill so that only two stories will be visible from the adjacent properties to the east or the nearby roadways and public areas. Visibility to the ocean will not generally be hindered from the north or south. The subject site maintains a large compact stand of pines along it's northeasterly property line which will screen the structure from that direction. The adjacent property to the south juts out westerly from this site, also providing some screening from the south which has public views from the Gualala community and beach. Additionally the proposed wood materials and natural finishes should make the structure "visually blend" into the terrain.

A drainage plan has been provided with this application in accordance with the recommendations of the engineer preparing the geotechnical report. It proposes the use of 2" rain leaders (downspout) from the roof of the building in three locations. The rain leader will be buried approximately 3'-5' deep leading to a leach field specifically designed for drainage use only. See Exhibit C. Perforated pipes adjacent to the retaining wall on the easterly side of the dwelling will collect drainage water from that portion of the site and the driveway which will direct the water to rain leaders draining to that same leach field and to another leach field directly adjacent to the driveway.

Public Access: Although westerly of the first public road, there are no public access issues involved on this property. The LCP maps do not indicate any public access in the vicinity of this property. Staff noted that there is an existing small trail leading from the access easement to the bluff above the creek, however, it did not appear to provide public access to the creek or any beach below. This trail was not clearly marked nor did it appear to be readily available to public use.

Hazards: The property is within a Moderate Fire Hazard designation area. Compliance with the State Department of Forestry and Fire Prevention (CDF) criteria should adequately provide for fire safety for this site.

This site is a bluff top ocean front property. A geotechnical report prepared for this development addresses issues including site conditions, bluff top, building envelope, vegetation, surface water, contamination, seismic issues, settlement, bluff stability, drainage, construction impact, building setbacks, grading, foundations, support, retaining walls and slabs.

The geotechnical report indicated building setback criteria. It is recommended in that report that 35' building setbacks be maintained from the top of the bluff. The proposed development complies with that recommended setback.

Staff notes that the westerly decking and a stairway exceeds the building envelope considered in the Geotechnical report. If the decking is constructed of wood, they may be located outside the building setback provided they are completely detached (structurally isolated) according to the geotechnical report. The plans on file with this case indicate that the building setbacks will be provided.

The Geotechnical report indicates that the San Andreas Fault is within two miles of the property, but anticipates with proper construction techniques and the history of the area, no major seismic danger exists.

Development of this site is in compliance with the Policies of Chapter 3.4 of the Coastal Element, Sec. 20.500 (Hazard Areas) and Sec. 20.492 (Grading, Erosion and Runoff) addressing development within hazard areas as outlined herein. Specific construction and development techniques and criteria are contained in the geotechnical report. All recommendations contained within the geotechnical report from BACE Geotechnical, Inc. dated June 30, 1992 are incorporated herein as Special Conditions.

A drainage plan has been provided with this application in accordance with the recommendations of the engineer preparing the geotechnical report. It proposes the use of 2" rain leaders (downspout) from the roof of the building in three locations. The rain leader will be buried approximately 3'-5' deep leading to a leach field specifically designed for drainage use only. See Exhibit C. Perforated pipes adjacent to the retaining wall on the easterly side of the dwelling will collect drainage water from that portion of the site and the driveway which will direct the water to rain leaders draining to that same leach field and to another leach field directly adjacent to the driveway.

Visual Resources: Although the subject property is located westerly of Highway One it is within an area excluded from the "Highly Scenic" area. Section 20.504.020 (B & C) standards regarding development criteria within Special Communities and Neighborhoods which includes properties westerly of Highway 1 in Gualala have been met. The scale, siting, location, materials and exterior colors are consistent with other development in the neighborhood and substantially the same as evidenced by other existing two story, wood siding contemporary construction in this area.

Natural Resources: The subject site is adjacent to Robinson Creek along it's northerly property line. The development of this site is approximately 300' easterly of that creek, which is sufficient separation to protect any habitat in that area. The County's LCP maps indicate a rocky intertidal area and beach adjacent to this property. The development of this site is on the top of the bluffs with a 35' setback as recommended by the Geotechnical Report and should not affect those resources.

Archaeological/Cultural Resources: The site is within an area generally found to have archaeological or paleontological resources due to it's proximity to the ocean. An archaeological study was required by the County's Archaeological Commission March 11, 1994. That study indicates that this site was formerly occupied by a railroad line providing access from the Gualala Mill to a landing adjacent to this property. The possibility of artifacts from previous occupants of the site was determined to be unlikely to be present and not have been significantly disrupted from that use. Staff has a standard condition requiring cessation of construction activity should any artifacts be unearthed, and subject to archaeological review and further study. Additionally, the study indicated that the existing vegetation obscured study at this time on a portion of the site and recommends that any vegetation removal other than that indicated in this permit have an archaeologist present. A recommended condition accommodates this concern.

Groundwater Resources: The site is located within an area mapped as Critical Water Resources. Water is provided by the Gualala Water Company which indicates adequate water is available to serve this residence.

Transportation/Circulation: The proposal is accessed by a private road easement from Sedalia Drive. The proposed project would not result in any alterations to existing roads or driveways except by the existing private driveway approach. The project would contribute incrementally to cumulative traffic volumes on the adjacent streets.

Zoning Requirements: The project complies with the zoning requirements for the District set forth in Sec. 20.376 et. seq., and with all other zoning requirements of Title 20 - Division II of the Mendocino County Code.

PROJECT FINDINGS AND CONDITIONS: Pursuant to the provisions of Chapter 20.532 and 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:

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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.
- (7) The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and Coastal Element of the General Plan.

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 (10) 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 or 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 Title 20, Division II 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. That this permit be 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.
6. This permit shall be subject to revocation or modification upon a finding of any one (1) or more of the following:

- a. That such permit was obtained or extended by fraud.
- b. That one or more of the conditions upon which such permit was granted have been violated.

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- c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety or as to be a nuisance.
 - d. A final judgment of a court of competent jurisdiction has declared one (1) or more condition to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one (1) 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 (100) feet of the discovery, and make notification of the discovery to the Director of Planning and Building Services. The Director will coordinate further actions for the protection of the archeological resources in accordance with Section 22.12.090 of the Mendocino County Code.

SPECIAL CONDITIONS:

1. Development shall be in compliance with all conditions and observations of the BACE Geotechnical Inc. report dated June 30, 1992 and as amended and shall be incorporated part of this permit.
2. Development of this site shall be consistent with the recommendations contained within the Archaeological Study reviewed by the Mendocino County Archaeological Commission.
3. Any vegetation removal other than indicated with this application shall require an amendment to this permit and further archaeological study at that time.
4. If the Archaeological Commission action requires a revision to this project, the applicant must obtain an amendment to the Coastal Permit. No building permit shall be issued which is not in compliance with the action of the Mendocino Archaeological Commission.

Staff Report Prepared By:

Date:

4/12/94

Mary B. Stinson
Mary B. Stinson
Coastal Planner

Attachments: Exhibit A - Location Map
Exhibit B - Site Plan
Exhibit C - Floor Plan
Exhibit D - Elevations
Exhibit E - Drainage Plans

Appeal Period: 10 days
Appeal Fee: \$555

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RAWLES, HINKLE, CARTER, BEHNKE & OGLESBY

A PROFESSIONAL CORPORATION

169 MASON ST., SUITE 300
POST OFFICE BOX 720
UKIAH, CALIFORNIA 95482NEWELL RAWLES (1909-1976)
DONALD G. HINKLE (Retired)
JARED G. CARTER
JOHN A. BEHNKE
MYRNA L. OGLESBY
MICHAEL D. MACOMBER
FRANK SHAW BACIK
CINDEE F. MAYFIELD
BRIAN C. CARTER
JEFFREY L. ANDERSON

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34
39

July 16, 1997

RECEIVED
JUL 21 1997CALIFORNIA
COASTAL COMMISSIONJo Ginsberg
California Coastal Commission
45 Fremont St., Suite 2000
San Francisco, CA. 94105-2219Re: David and Kathryn Riley, CDP #06-94(R/MOD)
Coastal Comm. Appeal # A-1-MEN-97-46
Hearing Date: August 12-15, 1997

Dear Ms. Ginsberg:

This office represents David and Kathryn Riley, the applicants for the above referenced Coastal Development Permit which has been appealed to the Commission. This letter addresses the specific issues Ms. Julie Verran raises in her letter of appeal dated July 7, 1997. It is addressed to you at this time because we understand you are preparing the staff report on this matter; if you are not, please forward the letter to whomever is doing so.

It is the applicants' position that this appeal should be denied under PRC §30625(b)(2) because no substantial issue exists with respect to the grounds on which an appeal may be filed pursuant to §30603, in that appellant has not presented any substantial evidence that : (a) the development does not conform to the standards set forth in the certified local coastal program, or (b) the development does not conform to the public access policies set forth under the Coastal Act.

Discussion

- I. Appellant Fails to State Grounds For Appeal Under PRC §30603.

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The appellant states her grounds for appeal as follows, and these grounds have no merit.

a. The allegation is that the County Supervisors failed to require a special condition to plant trees on site, as requested by Sonoma County Parks.

This project is not located in a designated Highly Scenic Area requiring the Board of Supervisors to apply stringent visual policies under the LCP or Coastal Act. Moreover, as evidenced by the photographs presented at the hearing on this matter, this project will have no visual impacts when viewed from any location on the Sonoma County Regional Park. The tape of the proceedings further demonstrates that the Supervisors had concerns whether trees would survive due to the weather conditions of the area, and whether the trees may present a hazard to structures in the area.

At the hearing the applicants stated that despite these points, they would plant trees if the Board so directed. In the lawful exercise of its discretion the Board decided not to impose the condition. We know of no reason why the commission should revise that exercise of discretion.

b. The allegation is that the 1992 BACE Geotech report was incomplete because it was not updated to reflect changed conditions relating to landslides, bluff retreat and sea caves.

This is simply not true. In addition to the 1992 report (which incidently was prepared for a larger residence and concluded that no impacts would occur as a result of the proposed project) Engineering Geologist Erik Olsborg provided four supplemental letters in response to the concerns of both Ms. Verran's and the Board's (See letters dated 1/9/97, 3/21/97, 5/15/97, and 6/10/97 attached hereto). Furthermore, Mr. Olsborg provided expert testimony at the hearing before the Supervisors and answered all of the Boardmembers' questions pertaining to landslides, bluff retreat, sea caves and the possibility of earthquake impacts.

c. The allegation is that Bluff retreat locally is considered to be 6-7" per year, not 1" per year or 1" per decade as reported by Erik Olsborg of BACE Geotech.

Again, this is untrue and a misquote from the book "Geology of Sea Ranch" by Ted Konigsmark. I understand

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that Mr. Konigsmark who is a geologist, but not registered in California, is sending you a letter stating that his book was written for non-geologists, and that it applies only to Sea Ranch. Furthermore, he states that he never said that the bluff retreat in the area of the subject property is considered to be 6-7" per year. Ms. Verran's reference to this lot being on "the mouth of the river", and related statements are misleading. This lot is not on "the mouth of the river." It is approximately 500' north.

Moreover, Ms. Verran's suggestion the driveway will erode away relatively quickly because water runs down it was specifically addressed by Mr. Olsborg before the Board of Supervisors. Mr. Olsborg explained that for several reasons the driveway was not a matter of concern, and that it would be graded during construction to assure that it would not channelize runoff water and therefore be more prone to erosion.

Ms. Verran has not presented any substantial evidence, scientific or otherwise, to refute the expert testimony of Mr. Olsborg on any of these points.

d. The allegation is that no Special Conditions were placed on this application concerning landslides and erosion (Coastal Element 3.4, 3.4-7); runoff and wave action (Mendocino Zoning Code §20.492.025, 20.420.060); and location near earthquake fault (Mendocino Zoning Code §20.500.020). It is also asserted that Mendocino Zoning Code §20.384.030 (minimum setbacks for SR zoned parcels) was not complied with in this development.

The standard and special conditions of former CDP #06-94 were incorporated into this modified CDP (See, Staff Report dated 2/27/97, Pg. 3). These conditions insure that development complies with all conditions and observations of the BACE 1992 report (pertaining to drainage, setbacks, seismic issues, construction impacts, bluff stability, grading). The revised plans were reviewed by BACE and that company determined that there were no changed circumstances that would require modification of their previous recommendations (See, Staff Report, Pg. 2). The previously approved project was found to be in compliance with the policies of Chapter 3.4 of the Coastal Element, Section 20.500 (Hazard Areas) and Section 20.492 (Grading, Erosion and Runoff). Ms. Verran has not presented any evidence, (just concerns and beliefs) that there is an existing 100' sea cave, that there exists an earthquake fault on

this site, or that the development on or near the site may be affected by runoff, wave action or landslides which would require further conditions to insure compliance with the LCP or Coastal Act policies.

This property is zoned RR-5, not S-R. Therefore the setback requirements for SR are not applicable.

In summary of the above, the appellant has not presented any substantial evidence that the proposed renewal and modification to this project will have impacts on soil or bluff erosion or cause slides in this area.¹ It was well settled in Leonoff v. Monterey County Board of Supervisors (1990) 222 Cal. App. 3d 1337 that "unsubstantiated opinions, concerns, and suspicions about a project, through sincere and deeply felt, do not rise to the level of substantial evidence supporting a fair argument of significant environmental effect. "Environmental decisions should be based on facts, not feelings" (Leonoff @ pgs. 1351-1352).

II. Appellant's Other Contentions Have No Merit Justifying Hearing On Appeal

Ms. Verran has not only failed to submit a qualified appeal under sections 30603 and 30625, but at least some of what she has set forth in her July 7 appeal is untrue or misleading:

1. On page one of her letter, Verran sites North Gualala Subdivision No. 4, Parcel Map Case 2, Drawer 28, Page 78, stating that the map indicates that the "County Engineer recommends property owners seek advice of a Registered Civil Engineer before undertaking any lot grading, installation of septic systems, or construction of footings or foundation." And, "This area is subject to earthquake shock."

First, the referenced parcel map does not pertain to the subject property, which was part of North Gualala Subdivision No.2. Second, according to Vale Vippert of the Mendocino County Planning Dept., for professional liability reasons most surveyors include

¹ "Evidence" founded on research must be based on "scientific knowledge, derived by a scientific method recognized as "good science", or if not based on independent research, the expert must come forward with objective, verifiable evidence that the testimony is based on scientifically valid principals, subject to normal scientific scrutiny through peer review and publication (See, Daubert v. Merrell Dow Pharmaceuticals (1994) 43 F.3d 1311, 1316-1318 and Association for Protection Etc. Values v. City of Ukiah (1991) 2 Cal App. 4th 720,723 which holds that "mere uncorroborated opinion or rumor does not constitute substantial evidence.").

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Correspondence

this earthquake warning on all their maps prepared for property in California. Third, Arthur H. Graff, a registered Geotechnical Engineer, participated in the BACE report for the construction of this project.

2. The Gualala Municipal Advisory Council, GMAC, whom the appellant apparently contacted regarding this project does not have expertise or responsibility respecting residential development, only commercial development. Therefore, the opinion Ms. Verran refers to (undoubtedly not that of the body as a whole) on this application is not even evidence; it was not, in any event, presented to and accepted by the Board of Supervisors. Our information is that neither Ms. Verran nor any one else formally contacted the GMAC Board on this issue.

3. There is no evidence of a public prescriptive easement across this property; Ms. Verran's saying so doesn't make it so. (See, Staff Report dated 4/28/94, Pg. 2). Furthermore, the LCP map does not indicate any public access in the vicinity of this property.

If Ms. Verran contends that there is a private or public prescriptive easement over the Riley parcel she must prove all of the following elements in a court of law: (a) Visible, open and notorious use of the subject property (b) that is continuous for a period of five years, (c) which use is hostile and adverse to the rights of the owner and, (d) under a claim of right (See generally, Warsaw v. Chicago Metallic Ceilings, Inc. (1984) 35 Cal. 3d 564, 571). This is not an issue for appeal to the Coastal Commission.

4. Regarding the fair hearing issue she refers to, Government Code §65010, providing in part: "No action, inaction or recommendation by any public agency . . . on any matter subject to this title shall be held invalid or set aside by any court on the ground of the improper admission or rejection of evidence or by reason of any error, . . . as to any matter pertaining to hearings, . . . , recommendation, appeals, or any matters of procedure subject to this title, unless the court finds that the error was prejudicial and that the party complaining or appealing suffered substantial injury from that error and that a different result would have been probable if the error had not occurred. There shall be no presumption that error is prejudicial or that injury was done if the error is shown."

Ms. Verran has failed to show how she was, is, or

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Jo Ginsberg
July 17, 1997
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will be "substantially" injured by the approval of this permit, and that, if the other two neighbors were permitted to express their concerns, that the Board would have voted to deny this project. Letters from two of the closest of Ms. Verran's and the Riley's neighbors were placed on the record before the Board. These neighbors supported the Riley's application.

Attached hereto is a newspaper letter to the editor dated 4/4/97 from appellant Julie Verran thanking the Supervisors for giving her a fair and thoughtful hearing.

CONCLUSION

Ms. Verran has set forth many strong feelings why she believes no development should occur on the Riley property. Her feelings, however, are not grounds for an appeal to the Coastal Commission. The property is zoned for development and the approved Coastal Plan presumes it will be developed with a single family house. The applicants ask you to recommend to the Commission that a hearing on this appeal be denied under the provisions of PRC §30625(b) because no substantial issue exists with respect to the grounds on which an appeal may be filed pursuant to §30603.

Sincerely,



JARED G. CARTER

JGC:lm:gvt
cc: David & Kathryn Riley
Ralph Matheson
Gary Berrigan

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	RILEY
Geotechnical Response	



BACE Geotechnical
A Division Of
Brunsing Associates, Inc.

May 15, 1997

10578.2

Mr. Ralph Matheson
Matheson Design
P. O. Box 321
Gualala, CA 95445

**RE: RESPONSE TO COUNTY COMMENTS, PROPOSED RILEY RESIDENCE,
38868 SEDALIA DRIVE, GUALALA, MENDOCINO COUNTY COASTAL
DEVELOPMENT PERMIT No. CDP 6-94 (R/Mod)**

Dear Mr. Matheson:

This letter is in response to the letter, dated March 26, 1997, to you from Raymond Hall, Director, County of Mendocino, Department of Planning and Building Services, regarding the proposed Riley residence, 38868 Sedalia Drive, Gualala, California.

BACE Geotechnical (BACE) previously performed a Geotechnical Investigation for the project and presented the results in a report dated June 30, 1992. BACE subsequently performed site and plan reviews for the slightly modified project, and presented the results of those reviews in a letter dated January 9, 1997. An additional site review was performed in March, 1997, to evaluate a small landslide that occurred along the northeast property boundary during the severe storms of early January, 1997. Our letter, dated March 21, 1997, summarized the results of our additional site review.

The following responses correspond to the numbered questions/concerns presented in the subject letter from the County of Mendocino:

1. As mentioned in our March 21, 1997, additional site review letter (copy attached), the landslide is a cut slope failure within the old railroad roadbed. Further, the landslide is approximately 80 feet north-northwest of the lower end of the existing driveway, as shown on the attached Site Plan, Plate 1. Runoff from the driveway does not come near the landslide. Continued landslide movements will be completely contained within the roadbed, which consists of a deep trench at this location. The driveway and proposed residence will have no effect upon the landslide and the landslide will have no effect upon the proposed property improvements.

Mr. Ralph Matheson
May 15, 1997
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RILEY
Geotechnical Response

2. The "fresh-water leach lines" will adequately drain the site without causing additional problems. No calculations were performed since none are necessary. An integral part of this system which is not shown on the plans, but has been discussed with you and Bill Hammers of Hart Engineering Group, drainage design engineers, is the installation of vertical risers above the drain pipes. These risers will allow excess water, during peak storm periods, to be dispersed on the ground surface to resume sheet flow across the site, as currently occurs. Number and spacing of risers can be added to the final plans, as necessary.

Still preferred by BACE, and the least damaging to the overall bluff environment, is to have several two to four inch drain pipes outlet beyond the upper bluff edge onto the hard rock below. Compacted and revegetated trench backfill, constructed under our observations and tests, would be no more erodible than the existing terrace deposits. The several inches of exposed drain pipes would be very difficult to see, unless the observer was standing directly over them.

3. The driveway, as currently planned, is suitable for long term service to the residence, as discussed in the next response.
4. With regard to the specific "bluff erosion rate study area" shown on Exhibit "B" of the County's letter, we have studied this area, both in 1992 and again in 1997. In addition, we have reviewed aerial photographs dated 1964 and 1981, as well as field photographs taken in 1992. In our 1992 report we stated that the overall, average bluff retreat rate appears to be on the order of an inch or less per year.

As mentioned in our referenced report, the bluff is basically stable. As shown on the attached Site Plan, there are several relatively small overhangs or caves eroded into the otherwise hard bedrock at the bluff toe. Collapse or enlargement of these features is not a major concern, because of the surrounding hard rock and their distance from the upper bluff edge. The more significant factor for bluff retreat is the erosion potential of the topsoils and subsoils (terrace deposits). Our previously given estimated bluff retreat rate is based upon potential erosion of these upper soils, since the lower hard rock portion of the bluff has a very slow average retreat rate of about an inch or two per decade.



Mr. Ralph Matheson
May 15, 1997
Page Three

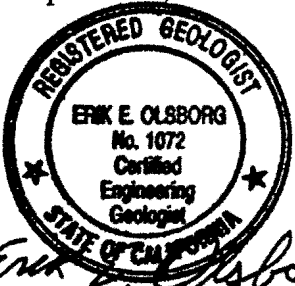
EXHIBIT NO.	12
APPLICATION NO.	A-1-MEN-97-46
RILEY	
Geotechnical Response	

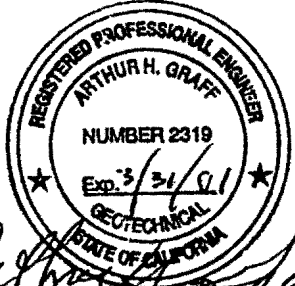
Comparison of our 1992 and 1996-7 field photographs confirms this estimated retreat rate. Attached Photographs A through D taken at the bluff edge, located as shown on the attached Site Plan, show very little, if any, changes over the last 4-1/2 to 5 years. During that time period, this region experienced several major storm periods, including near record storms in 1995, 1996, and 1997.

Based upon our past and recent studies, we conclude that our previously estimated bluff retreat rate is accurate and that the residence and driveway locations shown on the project plans are suitable for the economic lifespan of the planned residence (assumed to be 75 years by the California Coastal Commission).

We trust the above information suits your needs at this time. Please contact us if you have further questions.

Respectfully submitted,


Erik E. Olsborg
Engineering Geologist - 1072


Arthur H. Graff
Geotechnical Engineer - 2319

EEO/AHG/jt

Attachments: Plate 1 - Site Plan
Photographs A, B, C, and D

One copy submitted

cc: David Riley
Raymond Hall, County of Mendocino
Jared Carter, Attorney-at-Law



EXHIBIT NO. 12

APPLICATION NO.
A-1-MEN-97-46

RILEY

Geotechnical
Response

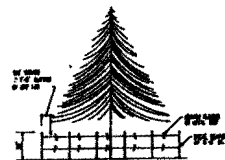
Appr.:
Date: 5/

SITE PLAN Showing Photograph and Cave Locations 6668 Sedalia Drive Gualala, California

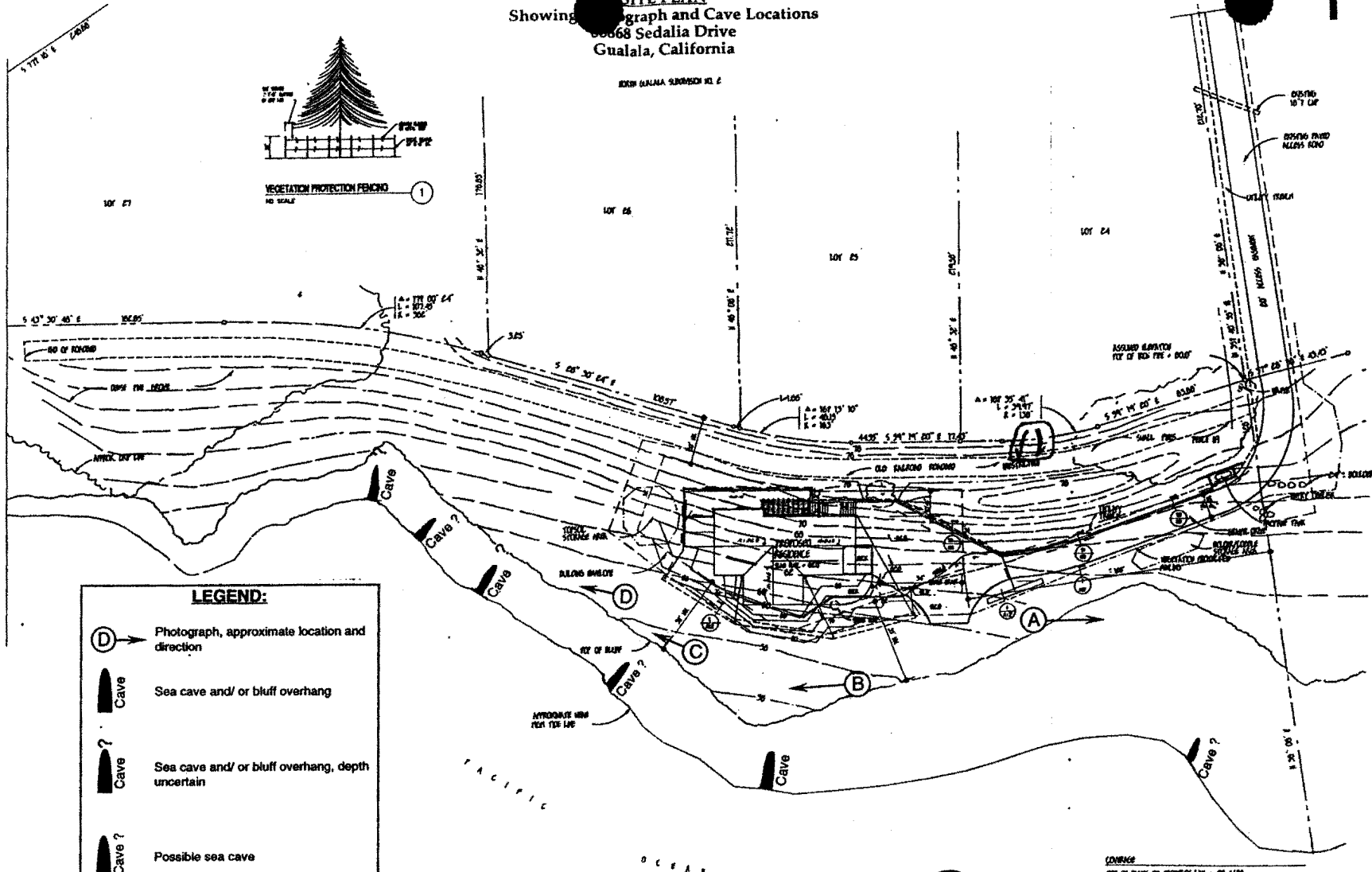
BORN GUALALA SURVEY NO. 2

CONVEY TO SUB AT START

1



VEGETATION PROTECTION FENCING
NO SCALE



LEGEND:

- (D) → Photograph, approximate location and direction
- Cave Sea cave and/ or bluff overhang
- Cave? Sea cave and/ or bluff overhang, depth uncertain
- Cave? Possible sea cave
- (11) Landslide, arrows showing direction of movement

APPROXIMATE SCALE
(feet)



CONVEY
SIZE OF BLUFF TO PROPERTY LINE = 75' ALONG
SEMI PERPENDICULAR TO PROPERTY LINE = 15' ALONG
BLUFF
THICKNESS
VEGETATION, FT.
TOTAL



BACE Geotechnical

RILEY RESIDENCE

Photograph A
38868 Sedalia Drive
Gualala, California

EXHIBIT NO. 12

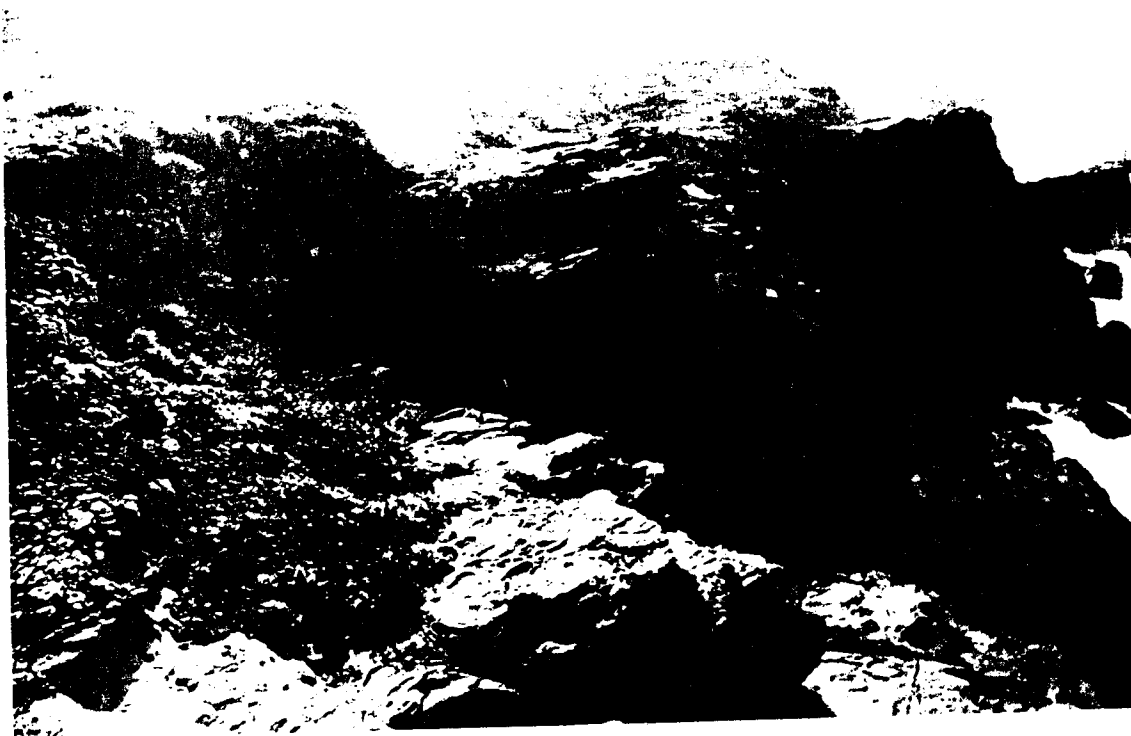
APPLICATION NO.
A-1-MEN-97-46

RILEY

Geotechnical
Response



June 9, 1992



April 25, 1997

EXHIBIT NO. 12

APPLICATION NO.
A-1-MEN-97-46

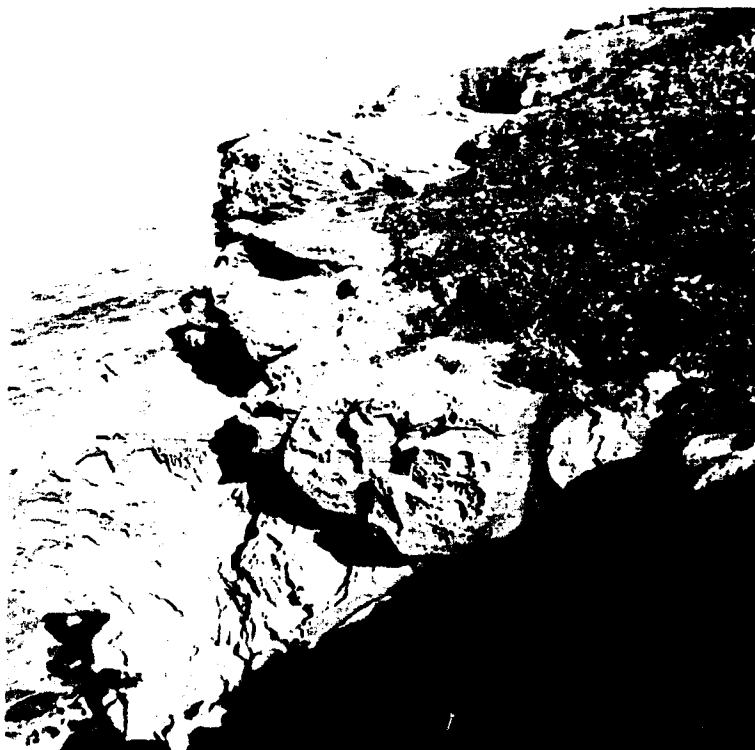
RILEY

Geotechnical
Response

Photograph B
38868 Sedalia Drive
Gualala, California



June 9, 1992



April 25, 1997



EXHIBIT NO. 12

APPLICATION NO.
A-1-MEN-97-46

RILEY

Geotechnical
Response

Photograph C
38868 Sedalia Drive
Gualala, California



June 9, 1992



April 25, 1997

38868 Sedalia Drive
Gualala, California



June 9, 1992



November 26,
1996

EXHIBIT NO. 12

APPLICATION NO.
A-1-MEN-97-46

RILEY

Geotechnical
Response

EXHIBIT NO. 13
APPLICATION NO. A-1-MEN-97-46
RILEY
Correspondence

P. 1 of 3

EUGENE KOJAN, PH.D.
ENGINEERING GEOLOGIST

DRIVE, BOX 866 • POINT REYES, CA 94956 U.S.A. • PHONE: (415) 663-8680; FAX: (415) 663-9527

July 22, 1997

Ms Jo Ginsberg
North Coast Region
Calif. Coastal Commission
45 Fremont St.
Suite 2000
San Francisco, CA. 94105
FAX: 904 5400

Ref: Riley Property, AP No. 145-181-01, Sedalia Drive
Gualala, Calif.

Dear Ms. Ginsberg:

I have been retained by Ms Kerran, owner of property immediately adjacent and upslope of the Riley property, to conduct an independent evaluation of the rate of Sea-cliff erosion in the vicinity. It is my understanding that the Commission has an established criterion for the setback of structures from the cliff equal to a minimum of 75 times the annual rate of cliff retreat.

I have conducted a field examination of the site on July 14th 1997. Preliminary observations at the site and inspection of all available photographs indicate the likelihood of a substantially higher rate of cliff erosion than the "less than 1 inch per year" asserted but unsubstantiated by Riley's consultant. Their "Geotechnical Investigation" of 6/30/92 and all subsequent letters are devoid of any documentation,

in the form of maps or site-specific measurement indicating the precise configuration of the cliff on the ocean side of the property in 1992 (the year of the geotechnical report) or at any prior or subsequent date. In the absence of such maps and site specific measurements, the claim of "less than 1 inch per year" is unsubstantiated, undocumented and is therefore incomplete.

We have now completed a precise map of the present configuration of the sea cliff. This will be compared with accurate, large-scale maps derived from sequential, high resolution, vertical, stereo air photos taken over the 55 years since 1942, the earliest air photos we have been able to obtain.

Such an analysis is essential because the rate of sea cliff retreat is quite episodic and variable from year to year and place to place. For example, the dramatic collapse of a 20 ft. wide strip of marine terrace within a few minutes is not unprecedented, but and may not recur for another 20 years. Similarly the annual rate of erosion of a few inches may not be measurable or even detectable without precise mapping and/or instrumentation.

EXHIBIT NO. 13

APPLICATION NO.
A-1-MEN-97-46

Correspondence

It will require approximately one month (until Aug 26th) to complete our data acquisition and analysis and to respond to the Commission's erosion criterion with a well documented evaluation.

Recognizing the absence of such a study to date and the incompleteness of the reports to date, we respectfully request that the Commission defer any decisions based on the very important criterion of the rate of sea cliff erosion until that date.

Respectfully submitted,

Eugene Kojan, Ph.D.

Engineering Geologist

California Cert # 0811

EXHIBIT NO.	13
APPLICATION NO.	A-1-MEN-97-46
RILEY	
Correspondence	

JUL 15 1997

CALIFORNIA
COASTAL COMMISSION

July 14, 1997

Mr. Jo Ginsberg, Coastal Planner
California Coastal Commission
45 Fremont, Suite 2000
San Francisco, CA 94105-2219

Re: Local Permit # CDP #06-94(R/MOD) and Appeal A-1-MEN-97-046

Dear Mr. Ginsberg:

It has come to my attention that page 4 of the subject appeal by Julie Verran includes a statement that "Geologist Ted Konigsmark, in his book *Geology of Sea Ranch*, says that the standard bluff retreat (in Sea Ranch) is seven inches per year."

This is to advise you that I did not make the above statement in my book, the correct title of which is *Geologic Trips, Sea Ranch*. The book discusses bluff erosion only in very general terms. The book was written to give the non-geologist a better understanding of the general geology of the Sea Ranch area. The book should not be used as a reference for building permits or appeals.

Sincerely,



Ted Konigsmark
P.O. Box 964
Gualala, CA 95445

707-785-2252

cc: Gary Berrigan, Coastal Permit Administrator, County of Mendocino,
Julie Verran
Ralph Matheson

EXHIBIT NO.	14
APPLICATION NO.	A-1-MEN-97-46
RILEY	
Correspondence	



SONOMA
COUNTY
REGIONAL
PARKS

Jim R. Angelo
Director

April 11, 1997

Gary Berrigan, Coastal Permit Administrator
County of Mendocino
Department of Planning & Building Services
143 West Spruce Street
Fort Bragg, CA 95437

RECEIVED

APR 15 1997

PLANNING & BUILDING SERV.
FORT BRAGG, CA

Dear Mr. Berrigan:

Thank you for the opportunity to comment on the potential impacts to Gualala Point Park from the proposed Riley residence (CDP #06-94) to be constructed on the bluff North of the park.

Staff from Regional Parks visited the building site and the park on April 9, 1997 to assess the impacts of the proposed residence on the park. The only identifiable impact would be visual. The building site and proposed residence is a middle ground view and is visible from most areas of the park on the West side of Highway One.

The choice of materials and finishes for the exterior of the residence, ie. cedar siding with natural stain, dark fiberglass shingle roofing, and native field stone will reduce the visual impacts to the park.

We did not receive a landscape plan as part of the planning packet, so we are uncertain if any attempt has been made to lessen the visual impacts to the park and soften the architectural lines of the residence. We would like to propose that the conditions of the permit include an evergreen screen of native trees along the South side of the residence (see included site plan) to mitigate the visual impacts to Gualala Point Park as a result of this construction.

If you have any questions or require additional information, please call me at (707) 527-2041.

Sincerely,

Philip Sales
Planning & Design Administrator

2300
County Center Drive
Suite 120A
Santa Rosa
CA 95403

Tel: 707 527 2087

Fax: 707 579 8247

cc: JRA

EXHIBIT NO.	15
APPLICATION NO.	A-1-MEN-97-46
RILEY	
Correspondence	

EXHIBIT NO. 15

APPLICATION NO.
A-1-MEN-97-46

RILEY

Correspondence

BOS A-19

VEGETATION

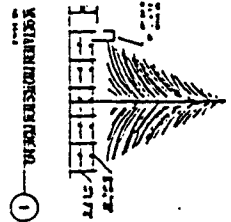
SITE PLAN

Scale 1" = 20'



DATE: 10/1/97
BY: [Signature]
CHECKED BY: [Signature]
APPROVED BY: [Signature]
TITLE: [Signature]
SCALE: 1" = 20'

PROPOSED EVERGREEN
SCREEN OF NATIVE TREES



STRUCTURAL ENGINEER
KURT MANN

P.O. BOX 321 GLENDA, CALIFORNIA
91701-0321

All

RILEY RESIDENCE

EXHIBIT NO.	16
APPLICATION NO.	A-1-MEN-97-46
RILEY	
Correspondence	

July 14, 1997

Jo Ginsberg
California Coastal Commission
North coast area

JUL 16 1997

Subject: Verran Coastal Commission appeal
of Mendocino County Riley CTP 6-94

Dear Ms Ginsberg:

This is to express my concern about the proposed construction of a large (3 story 70 ft. + long) residence on a narrow ocean bluff at 38868 Sedalia Drive, Guadalupe. I understand Mendocino County has granted a permit having clarified that the builder, not Mendocino, would be liable if recognized potential hazards cause damage. I understand the owner of the property immediately above the proposed building site, Julie Verran, has appealed the County's decision to the Coastal Commission.

I own the residence at 38851 Sedalia which is across the street from the Verran and Street properties, both of which would be impacted if

there are further slides on the area below them. I am familiar with that area from frequent walks there over the last several years. I checked the proposed building site this month and noted the recent slide below the adjacent Stillman property, the on-going erosion of what appear to be sandstone bluffs, and the indentation of the bluff (a cave?) at the mid-point below the proposed construction. On previous walks and from the Stout's deck when the waves are high and it is windy I have seen the ocean spray come up over that bluff.

Guadalupe residents have been alerted to how extensive the damage can be from a landslide in the area with the recent massive slide at Coral Court, just north of Sedalia. I cannot imagine why a person would assume the risk of building such a large house on a narrow, fragile, water swept, ocean bluff - both risking the structure and increasing the risk to the area above it.

I am asking that the Coastal Commission staff look carefully at the request to build on

EXHIBIT NO.	16
APPLICATION NO.	A-1-MEN-97-46
RILEY	
Correspondence	

Page 3.

This inappropriate and potentially hazardous site.
Perhaps another geologist's evaluation would
be helpful and could be obtained.

Thank you for your consideration of my
observations and concerns.

Ethelyn (Lynn) Sellinger
ETHELYN (LYNN) SELLINGER

P.O. Box 1243
Gualala, CA 95445

327-Richardson Drive
Mill Valley, CA 94941

EXHIBIT NO. 16
APPLICATION NO. A-1-MEN-97-46
RILEY
Correspondence

P.O. Box 1275
Gualala, CA 95445
July 17, 1997

California Coastal Commission
North Coast Area
45 Fremont, Suite 2000
San Francisco, CA 94105-2219

R C	EXHIBIT NO.	17
	APPLICATION NO.	A-1-MEN-97-46
	RILEY	
	Correspondence	

To whom it may concern:

This letter is in support of Julie Verran's request for Appeal from Coastal Permit decision of Local Government, dated July 7, 1997. The decision was Mendocino County Riley CDP 6-94. I wish to address this issue from four perspectives: (1) as one who has spent some time in the Verran's house, (2) as a volunteer worker at the Gualala Point Regional Park (Sonoma County), (3) as a resident of Gualala and (4) as a former member of the Gualala Bluff top committee.

(1) While I am not a nearby neighbor, I did spend some time at the house in the capacity of hospice volunteer when Ms. Verran's father, George Verran, was terminally ill. When I first saw the property in question, I assumed it was part of the Verran's, but was told it was not, but that it could never be built upon. Given its proximity to the cliffs and rocks below, I had no doubt that was so. When I read that someone was submitting a plan to build upon that property, I thought surely it would be denied. Imagine my further amazement when I realized that Ms. Verran's appeal was denied, and the manner in which it was denied. (i.e. the appeal was denied a public hearing even though a timely request was filed prior to the meeting.)

(2) I volunteer every Saturday morning at the Gualala Point Regional Park, and have watched the Gualala skyline sprout like a weed on the river bluff top. One of the few places where the natural environment is maintained is on the north side of the river mouth, and most visitors trek out to the north end of the beach to gaze up at the cliffs and trees, not houses. To state that "Gualala already looks so bad that there is little view to protect" or that "compared to downtown commercial buildings, the proposed residence would be minor" shows little regard for what once was and what someday might be again. As a resident, I have only myself and my inactive friends and neighbors to blame for the damage already done. To assume that further development would not make things any worse is quite incorrect; visitors to this portion of the coast have as much right to its beauty as the residents who live here, or happen to know of local access points.

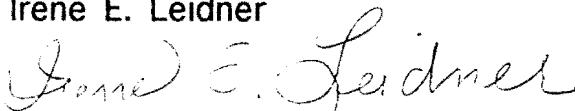
(3) We have been property owners in Gualala for 15 years, and have watched the river and ocean view slowly disappear from the main street. We have also watched, and visited, the sites where heavy rains have done extensive damage to land that was once used for other purposes, (Coral Court, in 1995 and 1997.) These sites were unstable due to fill from the old mill, and I understand that the parcel in question also has fill, since it was once used as a railroad for the lumber mill and has since been abandoned. This would not appear to provide a stable building site.

(4) One of the most charming aspects of Gualala is its river mouth and view of the ocean. In order to preserve that charm, a group of local residents formed a committee to begin the legal processes for construction of a public bluff top trail from the northern part of town south to the end of the businesses. While the necessary approvals are still being sought, a very cursory examination of the proposed trail shows that the latest commercial development, which was required to maintain a 25-foot easement along the front of the building for public access for an ocean view, presents no such easement. It is obvious that there was no expectation that such access would ever be requested. It is also obvious that the closer to the bluff top, the more spectacular the home, or the better for this business, with little regard for building a reasonably safe structure, given the bluff top erosion, winter storms, and proximity to the San Andreas fault in this area.

The manner in which this parcel has been used, ignored, divided, parceled out, studied (and not studied), and now being sought as a residence site, gives some indication of the lack of understanding of the hazards of utilizing property so close to the bluff edge. I feel that Ms. Verran has presented some very cogent arguments that need to be addressed rather than ignored as just another disgruntled neighbor. Please give her fair and *informed* consideration.

Sincerely,

Irene E. Leidner



cc: Ms. Julie Verran

EXHIBIT NO.	17
APPLICATION NO.	A-1-MEN-97-46
RILEY	
Correspondence	

403 Boynton Ave.
Berkeley CA 94707
July 21, 1997

California Coastal Commission
North Coast Area
45 Fremont, Suite 2000
San Francisco, CA 94105-2219

Dear Ms. Ginsberg:

We are writing this letter to support Julie Verran with regards to the property at 38868 Sedalia Dr. in Gualala, Mendocino County. We have visited the Verran house frequently over the last 15 years. The Verran house overlooks the bluff where a house is planned by the Rileys.

We have noticed over the past 15 years that the old railroad bed in the Riley parcel has become very much less clearly defined as a result of gradual land settling. We have also visited the Verran house during winter storms and have witnessed the shuddering of the house when large waves hit the bluff. Sometimes, during severe winter storms, waves break with sufficient force to reach over the tops of the bluff. Evidence for this is the failure of any but salt-tolerant vegetation to become established in the zone proximate to the edge of the bluff. Even during calm sunny winter days a noticeable amount of salt from spray is often deposited on eyeglasses.

For some time we have been somewhat concerned even for the safety of the Verran and some of the other already-existing houses because of the gradual erosion of the bluff and the proximity of the houses to the edge, so we were quite surprised and dismayed that anyone would consider building a house even closer to the ocean on such an exposed bluff.

We have also noticed that the well-defined public access foot trail at the edge of the bluff has been significantly eroded in the times between our visits. Many pedestrians use the path to enjoy the view, and we have often used it ourselves to enjoy numerous wildflowers and also nesting Pigeon Guillemots and Cormorants during the summer. It is hard to imagine people feeling free to continue using the path with a large house on that small section of bluff, even if the owners would not object. Walking along the bluff has also given us clear views of the beach at Gualala Park. Obviously, any large house such as the one being planned will be another detriment to the view from the park beach that we have enjoyed using. Clearly, the proposed house would not be shielded by trees from park view as most of the older houses are, because it is too close to the ocean to allow trees to grow, the salt and wind from ocean being clearly too strong.

We were quite shocked several years ago when the issue of a house being built on the proposed site first came up as it seems clearly unsuitable in terms of land instability and erosion. We hope the Coastal Commission will reconsider allowing such a house to be built.

Sincerely,

Krehe H. Ritter
Krehe H. Ritter

Katherine S. Ritter
Katherine S. Ritter

R CO	EXHIBIT NO.	18
	APPLICATION NO.	A-1-MEN-97-46
	RILEY	
	Correspondence	

Lindsay Vurek, PO Box 168, Gualala, CA 95445; 707 884-1915 fax 707 884-4733

California Coastal Commission
North Coast Area -- Jo Ginsberg ✓
45 Fremont # 2000
San Francisco, CA 94105-2219
415 904-5260
fax 415 904-5400

7-22-97 via fax

RECEIVED
JUL 23 1997
CALIFORNIA
COASTAL COMMISSION

RE: Mendocino County CDP- 6-94(Mod)

Dear Jo Ginsberg:

It has been brought to my attention that a coastal property owner in our town is requesting approval of building plans that might jeopardize neighboring properties in addition to being unsafe for the proposed house and the public coast line below the building site. Apparently there are unresolved issues regarding adequate set-backs from the bluff edge, the road to service the house and the property line. The sea cave lengths below the proposed house are an additional unknown.

Very close to the proposed house a relatively recent slide destroyed a large section of a house by dumping it into the ocean along with a number of chemicals such as oil and gas. Indications are that the proposed house may have large sections built on fill similar to the house involved in the slide.

A smaller house with adequate set backs and proper pilings under the structure might be more appropriate if all the safety issues can not be resolved.

Thank You

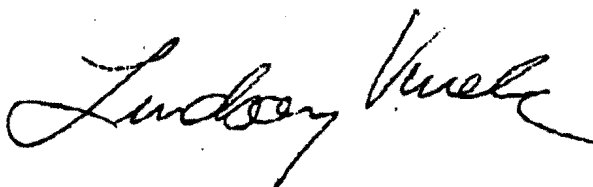


EXHIBIT NO.	19
APPLICATION NO.	A-1-MEN-97-46
RILEY	
Correspondence	



**BACE Geotechnical***A Division Of***Brunsing Associates, Inc.**

May 15, 1997

10578.2

Mr. Ralph Matheson
Matheson Design
P. O. Box 321
Gualala, CA 95445

**RE: RESPONSE TO COUNTY COMMENTS, PROPOSED RILEY RESIDENCE,
38868 SEDALIA DRIVE, GUALALA, MENDOCINO COUNTY COASTAL
DEVELOPMENT PERMIT No. CDP 6-94 (R/Mod)**

Dear Mr. Matheson:

This letter is in response to the letter, dated March 26, 1997, to you from Raymond Hall, Director, County of Mendocino, Department of Planning and Building Services, regarding the proposed Riley residence, 38868 Sedalia Drive, Gualala, California.

BACE Geotechnical (BACE) previously performed a Geotechnical Investigation for the project and presented the results in a report dated June 30, 1992. BACE subsequently performed site and plan reviews for the slightly modified project, and presented the results of those reviews in a letter dated January 9, 1997. An additional site review was performed in March, 1997, to evaluate a small landslide that occurred along the northeast property boundary during the severe storms of early January, 1997. Our letter, dated March 21, 1997, summarized the results of our additional site review.

The following responses correspond to the numbered questions/concerns presented in the subject letter from the County of Mendocino:

1. As mentioned in our March 21, 1997, additional site review letter (copy attached), the landslide is a cut slope failure within the old railroad roadbed. Further, the landslide is approximately 80 feet north-northwest of the lower end of the existing driveway, as shown on the attached Site Plan, Plate 1. Runoff from the driveway does not come near the landslide. Continued landslide movements will be completely contained within the roadbed, which consists of a deep trench at this location. The driveway and proposed residence will have no effect upon the landslide and the landslide will have no effect upon the proposed property improvements.

Mr. Ralph Matheson
May 15, 1997
Page Two

2. The "fresh-water leach lines" will adequately drain the site without causing additional problems. No calculations were performed since none are necessary. An integral part of this system which is not shown on the plans, but has been discussed with you and Bill Hammers of Hart Engineering Group, drainage design engineers, is the installation of vertical risers above the drain pipes. These risers will allow excess water, during peak storm periods, to be dispersed on the ground surface to resume sheet flow accross the site, as currently occurs. Number and spacing of risers can be added to the final plans, as necessary.

Still preferred by BACE, and the least damaging to the overall bluff environment, is to have several two to four inch drain pipes outlet beyond the upper bluff edge onto the hard rock below. Compacted and revegetated trench backfill, constructed under our observations and tests, would be no more erodible than the existing terrace deposits. The several inches of exposed drain pipes would be very difficult to see, unless the observer was standing directly over them.

3. The driveway, as currently planned, is suitable for long term service to the residence, as discussed in the next response.
4. With regard to the specific "bluff erosion rate study area" shown on Exhibit "B" of the County's letter, we have studied this area, both in 1992 and again in 1997. In addition, we have reviewed aerial photographs dated 1964 and 1981, as well as field photographs taken in 1992. In our 1992 report we stated that the overall, average bluff retreat rate appears to be on the order of an inch or less per year.

As mentioned in our referenced report, the bluff is basically stable. As shown on the attached Site Plan, there are several relatively small overhangs or caves eroded into the otherwise hard bedrock at the bluff toe. Collapse or enlargement of these features is not a major concern, because of the surrounding hard rock and their distance from the upper bluff edge. The more significant factor for bluff retreat is the erosion potential of the topsoils and subsoils (terrace deposits). Our previously given estimated bluff retreat rate is based upon potential erosion of these upper soils, since the lower hard rock portion of the bluff has a very slow average retreat rate of about an inch or two per decade.



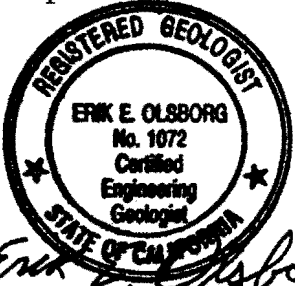
Mr. Ralph Matheson
May 15, 1997
Page Three

Comparison of our 1992 and 1996-7 field photographs confirms this estimated retreat rate. Attached Photographs A through D taken at the bluff edge, located as shown on the attached Site Plan, show very little, if any, changes over the last 4-1/2 to 5 years. During that time period, this region experienced several major storm periods, including near record storms in 1995, 1996, and 1997.

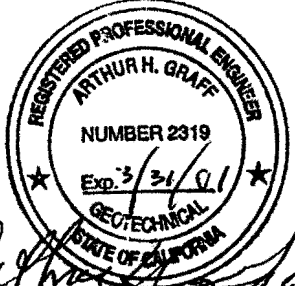
Based upon our past and recent studies, we conclude that our previously estimated bluff retreat rate is accurate and that the residence and driveway locations shown on the project plans are suitable for the economic lifespan of the planned residence (assumed to be 75 years by the California Coastal Commission).

We trust the above information suits your needs at this time. Please contact us if you have further questions.

Respectfully submitted,



Erik E. Olsborg
Erik E. Olsborg
Engineering Geologist - 1072



Arthur H. Graff
Arthur H. Graff
Geotechnical Engineer - 2319

EEO/AHG/jt

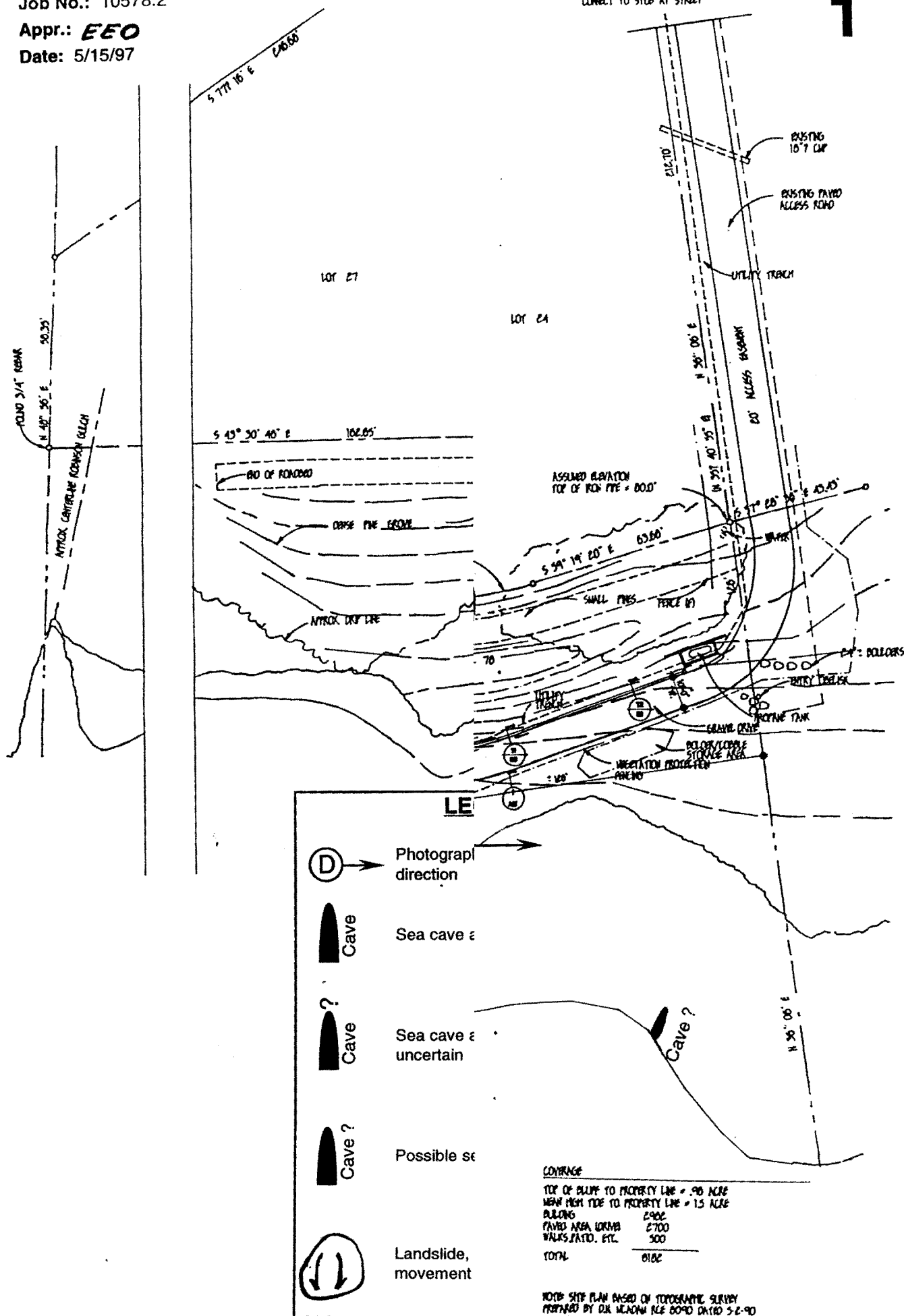
Attachments: Plate 1 - Site Plan
Photographs A, B, C, and D

One copy submitted

cc: David Riley
Raymond Hall, County of Mendocino
Jared Carter, Attorney-at-Law



Date: 5/15/97



Cherry
P.O. BOX 321 GUALANA, CALIFORNIA

STRUCTURAL ENGINEER
KURT MENNING

PALEY RESIDENCE

AND WINDS BLOW

DATE	20 SEP
SCALE	1" = 20'
DRAWN	
JOB	
SHEET	

Photograph A
38868 Sedalia Drive
Gualala, California



June 9, 1992



April 25, 1997



Photograph B
38868 Sedalia Drive
Gualala, California



June 9, 1992



April 25, 1997



Photograph C
38868 Sedalia Drive
Gualala, California



June 9, 1992



April 25, 1997



Photograph D
38868 Sedalia Drive
Gualala, California



June 9, 1992



November 26,
1996



