

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
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RECORD PACKET COPY



F8a

November 28, 2000

TO: Commissioners and Interested Parties

FROM: Steve Scholl, Deputy Director
Robert S. Merrill, North Coast District Manager

SUBJECT: Time Extension Request No. A-1-MEN-97-046-E1, Riley
(For Commission consideration on December 15, 2000)

Background

The applicants have requested a one-year time extension of Coastal Development Permit No. A-1-MEN-97-46. The permit was granted by the Coastal Commission with conditions on August 12, 1998 for the construction of a single-family residence with a subterranean garage, driveway, sewer lift pump, drainage system, and grading at 38868 Sedalia Drive in Gualala, Mendocino County.

The permit extension request (A-1-MEN-97-046-E1) was received on August 2, 2000. If approved, the expiration date of the permit would be extended to August 12, 2001.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission approve the request for a time extension to Coastal Development Permit A-1-MEN-97-046 on the grounds that there are not changed circumstances that affect the consistency of the project with the California Coastal Act of 1976.

Many of the alleged changed circumstances raised by those objecting to the time extension relate to the geologic stability of the site. The Commission Staff Geologist inspected the site with the North Coast staff in October. Staff has not observed any obvious changed circumstances regarding site stability since August 1998 when the original permit was granted, and no specific documentation of any particular cliff collapse that would affect the stability of the bluffs has been submitted. Staff agrees that the subject bluff is a dynamic environment subject to erosion.

However, the letters of objection do not point to or provide evidence of any geological changes or erosion rates greater than previously anticipated when the permit was approved on August 12, 1998. The Commission addressed the geologic hazards associated with the site in numerous hearings and additionally an independent geologist was retained at the request of the Commission. As a result of the geotechnical evaluations, special conditions and resulting setbacks were placed on the original permit and the project was found consistent with the Mendocino County Local Coastal Plan. Therefore, the objections relating to geologic concerns do not identify changed circumstances that may affect the consistency of the development with the certified LCP or the access and recreational policies of the Coastal Act. Similarly, staff concludes that objections raising concerns about visual impacts, public access, inaccuracies in the original staff report, drainage, and the precedence of the approved development for the review of future development on other similar lots do not identify changed circumstances that may affect the consistency of the development with the certified LCP or the access and recreational policies of the Coastal Act.

STAFF NOTES

1. Procedure:

Normally, coastal development permits are issued for two-year periods. Development must commence within two years following the date of Commission action. If development has not commenced within that time period, then a one-year time extension may be sought.

Section 13169(a) of the Commission's regulations requires the Executive Director to determine whether there are changed circumstances that affect the approved development's consistency with the Coastal Act or with a certified local coastal program, if applicable. If the Executive Director determines that there are no changed circumstances that may affect the consistency of the development, the Executive Director must mail notice of this determination to interested parties and also report the determination to the Commission to provide the Commission with an opportunity to object to the Executive Director's determination. The Executive Director must also report to the Commission any objections to his determination received within 10 working days after mailing of the notice. If three Commissioners object to the extension on grounds that there may be changed circumstances that affect consistency, the Executive Director shall schedule the extension for a hearing on whether there are changed circumstances. If less than three Commissioners object to the extension, the time for commencement of development shall be extended for one year from the expiration date of the permit.

In this case, the Executive Director received a one-year extension request from the applicants on August 2, 2000. The Executive Director mailed the Notice of Extension Request for Coastal Development pursuant to Section 13169 of the Commission regulations (Exhibit No. 8). Within 10 working days of publishing the notice, the Commission received ten letters of objection to the permit extension application (Exhibit No. 9). In addition, the Commission received three letters of objection after the 10th working day period for filing an objection as set forth in Section 13169 of the Commission regulations (Exhibit No. 10). Although these latter letters were not received

in time to be properly considered by the Commission, the issues raised were the same as those raised in other letters received within the 10 working day period. On September 13, 2000, at the Commission meeting in Eureka, the Executive Director reported his determination that there are no changed circumstances and reported the letters of objection that had been received. At that meeting, more than three Commissioners requested that a hearing be held on the permit extension request. Commission staff scheduled the hearing for the December 15, 2000 Commission meeting in San Francisco.

Section 13169 of the Commission's regulations provides that if at the hearing, three Commissioners determine that there are changed circumstances that affect consistency of the development with the public access policies of the Coastal Act or the certified local coastal program, the extension shall be denied. In that case, the original permit is no longer valid, and the original permit application must be set for a new hearing before the Commission as though it were a new application. The Commission would be free to approve, approve with conditions, or deny the application. If at the December 15, 2000 hearing no determination of changed circumstances is made by three Commissioners, the extension is approved and the time for commencement of development shall be extended for one year from the expiration date of the permit.

2. Standard of Review

The site that is the subject of this permit extension request is located between the first public road and the sea and is subject to the Mendocino County LCP and the Coastal access and recreation policies of the Coastal Act. In its consideration of the coastal development permit extension request, the Commission is limited by the need to show that the objection raises an issue of changed circumstances that affect the consistency of the development with these standards of review.

3. October Staff Site Inspection

A number of the objections that were raised to granting the permit extension request concerned geologic issues. On October 20, 2000, after the time extension request was reported to the Commission at the September meeting in Eureka, the Commission's North Coast staff and Staff Geologist Mark Johnsson conducted a site inspection to further evaluate the allegations of changed circumstances, particularly with regard to the geologic concerns that have been raised. Staff met with the applicants' geologist, Erik Olsborg of Bace Geotechnical and viewed the site with him. The applicants themselves currently reside in another state and were unable to attend the meeting. Prior to meeting with Mr. Olsborg, Commission staff met with Julie Verran, one of the members of the public who had written letters objecting to the Executive Director's original determination that there were no changed circumstances that would affect the projects consistency with the policies of the Mendocino County LCP and the coastal access and recreation policies of the Coastal Act.

4. Public Testimony

The purpose of the hearing is to consider whether there are changed circumstances that affect the project's consistency with the policies of the Mendocino County LCP and the Coastal access and recreation policies of the Coastal Act rather than to reconsider the merits of the project or the appropriateness of the adopted conditions. Public testimony will be limited accordingly.

I. STAFF RECOMMENDATION FOR TIME EXTENSION REQUEST NO: A-1-MEN-97-046-E1

Staff recommends that the Commission approve the request for a time extension to Coastal Development Permit No. A-1-MEN-97-046-E1 on the grounds that there are not changed circumstances, pursuant to Administrative Code Section 13169, that affect the consistency of the project with the certified Mendocino County Local Coastal Program and the public access and recreation policies of the California Coastal Act. If three (3) Commissioners determine that there are changed circumstances that affect consistency of the development with these standards, the extension will be denied.

II. FINDINGS:

The Commission hereby finds and declares as follows:

A. PROPOSED EXTENSION

The applicants have requested a one-year time extension of Coastal Development Permit A-1-MEN-97-046. The extension request was received in a timely manner on August 2, 2000, prior to when the permit would have expired had the request not been received. The Executive Director published the Notice of Extension Request for Coastal Development pursuant to Section 13169 of the Commission regulations (Exhibit No. 8). Within 10 working days of publishing the notice, the Commission received ten letters of objection to the permit extension application (Exhibit No 9). In addition, the Commission received three letters of objection after the 10th working day period for filing an objection as set forth in Section 13169 of the Commission regulations (Exhibit No. 10). Although these latter letters were not received in time to be properly considered by the Commission, the issues raised were the same as those raised in other letters received within the 10 working day period.

B. ORIGINAL PERMIT

The permit was originally granted for the construction of a two-story, 28-foot high, 2,814-square-foot single-family residence with an attached, subterranean garage/basement, driveway, sewer lift pump system to accommodate public sewer service, and drainage system that includes freshwater leach lines (see Exhibits 1-7).

The 1.2-acre subject site is owned by David and Kathryn Riley and is located west of Highway One in Gualala, at 38868 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 narrow coastal terrace and part of the adjoining hillside. There are no other homes on the terrace. The site is visible from Gualala Point County Park. There is no sensitive habitat on the subject parcel.

The project came to the Commission on appeal. The Mendocino County's Coastal Permit Administrator originally approved with conditions Coastal Development Permit 06-94 (R/MOD) on February 27, 1997. This approval was appealed to the Mendocino County Board of Supervisors, who denied the appeal and approved the project on May 23, 1997.

The Commission received an appeal of the County of Mendocino's decision to approve the project from Julie Verran, a neighbor on an adjoining parcel. The Commission determined that a substantial issue existed with respect to the grounds which the appeal had been filed. The Commission heard the project De Novo at the March 11, 1998, meeting but decided to continue the hearing to a later date to request additional information from the applicants on sea caves, bluff retreat rates, and on the applicants' economic interest in the property.

On August 12, 1998, the Commission approved the project with six (6) special conditions relating to visual resources, geological hazards, and archaeological resources. On October 16, 1998, the Commission adopted revised findings in support of its action. A copy of the adopted findings with the special conditions listed on pages 2-5, is attached as Exhibit 11 to this report.

The permit has not yet been issued. However, the applicant has nearly satisfied all of the special conditions of the approval that must be met prior to issuance of the permit.

C. OBJECTIONS AND ANALYSIS

The Executive Director had previously determined that no change in circumstances has occurred, and mailed appropriate notice of that determination on August 3, 2000 (see Exhibit 8). The Commission received ten letters of objection to the extension application within the 10 working day period for filing an objection and two additional letters after the ten-day period. The letters raise six distinct concerns. These concerns include concerns relating to (1) the geologic stability of the site, (2) the visual impacts of the development, (3) the impacts of the project on public access, (4) alleged inaccuracies in previous staff reports, (5) changes in drainage, and (6) the cumulative impacts of the development. A summation of each of the specific concerns raised by the objection letters and the Commission's findings regarding the concern follow below.

1. Geologic Stability

Objection

Several letters stated that the house is located on an unstable area subject to cliff erosion. Another letter mentioned that "if cuts are made in the berm on the oceanside of the old railroad right of way that the existing dwellings upslope may be compromised." Another letter mentioned that "the narrow piece of land [is] already gradually, daily falling into the ocean. If a landslide is triggered it's a ... hazard to all houses in the immediate, near and even those at a slight distance." Another letter described the instability of the site, by referencing an incident that occurred prior to the Commission's action on the Riley permit application on a nearby property where a garage slid off the cliff, falling to the beach below. In one letter, the writer claimed to have heard four cliff collapses on one day in November 1999, although no documentation of such collapses was submitted. Another concern relates to a small landslide that has occurred on the slope of the adjoining parcel to the east.

Several letters referenced a recent Federal Emergency Management Act (FEMA) report that stated all construction within 500 feet of the California coast is at risk. These letters stated the project should be referred to FEMA for review.

One letter suggested that more recent aerial photos are now available that would help determine the bluff retreat rate. The letter also stated that the Coastal Commission's language for hazard restriction has been refined since 1998 and should apply to the proposed development.

Finally, one letter stated that since the summer of 1998 there has been continued scouring of the coastal bluff in the area of the proposed driveway and that, with the required setbacks, there is not enough room for the driveway.

Discussion

Coastal Commission staff have visited the site three times since July 2000. The Commission staff geologist accompanied the Commission's North Coast staff during the last site visit in October and inspected the site. In addition to examining the portions of the project site inland of the bluff face, this inspection included an examination of the sea cave area at the base of the bluff face. Staff has not noticed any obvious changed circumstances regarding site stability since August 1998 when the original permit was granted. No specific evidence of any particular cliff collapse that would affect the stability of the bluffs has been submitted. Staff agrees that the subject bluff is a dynamic environment subject to erosion. However, the Commission addressed the geologic hazards associated with the site in numerous hearings and additionally an independent geologist was retained at the request of the Commission. As a result of the geotechnical evaluations, special conditions and resulting setbacks were placed on the original permit and the project was found consistent with the Mendocino County Local Coastal Plan. The letters of objection do not point to or provide evidence of any geological changes or erosion rates greater than previously anticipated when the permit was approved on August 12, 1998.

Regarding the small landslide that has occurred on the slope directly east of the applicants' parcel, there is no evidence that the landslide would have been affected by the approved development or that the approved development would have been affected by the landslide. The slide occurred on the inland side of a wide cut through the slope that appears to have been excavated for the old railroad grade. The hillside area where the slide occurred is not located on the applicants' parcel. In addition, the approved residence is separated from the slope where the slide occurred by the railroad grade cut. The house is located west of the railroad grade cut and the slide occurred east of the cut.

Similarly, there is no evidence that previous slides that have occurred elsewhere in the neighborhood would either have been affected by the approved development or affect the development. In addition, the appellant testified at the de novo hearing on the project about slides that have occurred in the vicinity. Thus, the existence of such slides does not represent a changed circumstance that the Commission did not consider at the time it acted on the permit application.

Therefore, the objections do not identify changed circumstances that may affect the consistency of the development with the certified LCP or the access and recreational policies of the Coastal Act.

2. Visual Impact

Objection

One letter of objection stated that planting trees to protect the views from the County Beach is not realistic because trees will not grow more than 10 feet tall in this location. Another letter mentioned that the house will be the most prominent feature seen from the beach by the Gualala River's outlet (Gualala Point Park).

Discussion

The issue of the visibility of the project from the Gualala Point Park was addressed during hearings for the original permit. Special Condition #3 of the permit requires the permit holder to submit a landscaping plan for approval by the Executive Director prior to issuance of the permit. A landscaping plan was recently submitted to Coastal Commission staff for review. No action has been taken on the landscaping plan at this time. The landscaping plan will not be approved unless it meets the objective of visually buffering the site from the Gualala Point Park. The letters of objection do not identify or provide evidence of changes regarding the visibility of the site from the Gualala Point Park since the permit was approved on August 12, 1998. Therefore, the objections do not identify changed circumstances that may affect the consistency of the development with the certified LCP or the access and recreational policies of the Coastal Act.

3. Public Access

Objection

Several letters mentioned the public has used the site in the past for hiking and access to fishing. The letters asked what would happen to this trail if construction occurs. Several letters stressed that funding should be sought to purchase this site for public access.

Discussion

The County of Mendocino's Land Use Maps do not designate the subject parcel for public access and there does not appear to be a safe vertical access to the rocky shore down the steep bluffs. The County found no evidence of prescriptive use on the subject parcel during its initial investigation. The Commission addressed the issue of public access for the original permit during several public hearings and the project, which does not include public access, was found to be consistent with the public access policies of the Coastal Act and the Mendocino LCP. The letters of objection do not point to or provide evidence of changes regarding public access since the permit was approved on August 12, 1998. Therefore, the objections do not identify changed circumstances that may affect the consistency of the development with the certified LCP or the access and recreational policies of the Coastal Act.

4. Inaccuracies

Objection

Several letters state that significant inaccuracies occurred in previous staff reports written for the original CDP. One letter specifically states that the findings in the 1998 Commission approval were not factual with respect to the size of either the proposed house or lot.

Discussion

After approval of the Riley development on August 12, 1998, the Commission considered Revised Findings at its meeting of October 16, 1998. The Commission made some minor changes to the staff recommended Revised Findings, and then by a unanimous vote approved the Revised Findings with those changes. A copy of the Adopted Findings, which incorporates the minor changes the Commission made at the hearing, is attached as Exhibit 11 of this report. Among other changes, the revised findings as adopted corrected certain inaccuracies that appeared in the original staff recommendation mailed prior to the August 12, 1998 hearing. It is not clear from the letters received on the extension request what specific inaccuracies the correspondents believe may remain after adoption of the Revised Findings, and no evidence has been presented that these unidentified inaccuracies raise a changed circumstance that could affect the consistency of the project with the policies of the certified LCP. Therefore, the objections do not identify changed circumstances that may affect the consistency of the development with the certified LCP or the access and recreational policies of the Coastal Act.

5. Drainage

Objection

One letter stated that a new project in the area (the Hathcoat garage) changes the direction of neighborhood stormwater from draining toward the Gualala River to draining onto the Riley parcel and over the bluff edge of the active slide.

Discussion

The Hathcoat garage was appealed by the same appellant of the Riley project to the Commission. The Hathcoat residence and the approved Riley development share the same access from Sedalia Drive, which consists of a steep paved driveway that heads down to the coastal terrace at the south end of the Riley parcel. One of the issues raised in the Hathcoat appeal was a concern that drainage would affect bluff stability. On December 10, 1999, the Commission found that the appeal raised no substantial issue with regard to this issue. With regard to the drainage issue, the Commission found that the scope and extent of the Hathcoat project was not substantial. It found that the project would only slightly modify the location of an existing culvert and it would not change the volume of discharge from the culvert. Staff notes that the approved Riley residence would be located farther up the coast, at least 100 feet north of the end of the existing paved driveway.

No evidence has been submitted indicating that redirected drainage from the Hathcoat garage project would in fact affect the approved Riley development in a way that would affect the consistency of the Riley project with the certified LCP. In addition, to the extent that the culvert work for the Hathcoat project was performed inconsistent with terms of the County approved permit for the Hathcoat project, a permit violation may exist that may need to be resolved. If resolution of such a violation resulted in an amendment to the Hathcoat permit, in approving the amendment, the County or the Commission on appeal would have to find, among other things, that the amendment was consistent with LCP policies that preclude new development from contributing to geologic or flood hazards. Thus, the issue may affect the Hathcoat project but does not represent a changed circumstance that would have affected the consistency of the Riley project with the certified LCP. Furthermore, Special Condition No. 2 of Coastal Development Permit No. A-1-MEN-97-046 requires the Rileys to submit final drainage plans for the review and approval of the Executive Director consistent with the recommendations of the geotechnical reports prepared for the project. These drainage plans have not yet been approved. Included among the geotechnical report recommendations are recommendations that the runoff from the driveway area be collected, conveyed, and discharged away from the bluff edge. Thus, the project as conditioned, already includes measures to address drainage from the driveway.

Therefore, the objections do not identify changed circumstances that may affect the consistency of the development with the certified LCP or the access and recreational policies of the Coastal Act.

6. Precedence for Future Development

Objection

One letter stated that further construction projects, not known to the Commission when the original permit was issued, are proposed for other lots created (like the Riley's) from the old Gualala railroad easement. The letter stated the Riley project would provide a precedent for further dangerous coastal development.

Discussion

During the public hearing on the project, the Commission received testimony from the owner of the adjacent parcel to the south of the Riley parcel who identified himself as the owner of that undeveloped parcel. Thus, the Commission was aware that development may be proposed on at least one other parcel on the coastal terrace adjacent to the Riley parcel. It is not clear whether the Commission was aware at the August 1998 hearing that additional undeveloped lots created from the old Gualala railroad easement exist in the vicinity.

Whether or not the Commission was aware that such lots exist, the objections do not identify how this possible lack of knowledge of other similar parcels represents a changed circumstance that may affect the consistency of the development with the certified LCP or the access and recreational policies of the Coastal Act. Development on each lot would require a separate permit and the County, or the Commission on appeal, would be able to evaluate the consistency of whatever development is proposed on each lot with the certified LCP and the public access and recreation policies of the Coastal Act. For example, to file an application for development on any of the bluff top parcels, each applicant would have to submit a current geotechnical report evaluating the unique geologic conditions at his or her lot in relation to the proposed development. A determination of the consistency of the proposed development with the geologic hazard policies of the LCP would be based on the particular geotechnical information developed at the time for that particular development on that particular parcel and not on the fact that the Riley development was previously approved. Knowledge that development might be proposed on similar parcels in the future would not have changed the Commission's determination in 1998 that based on the geotechnical information about the Riley parcel, that the Riley development is consistent with the geologic hazard policies of the LCP. Therefore, the objections do not identify changed circumstances that may affect the consistency of the development with the certified LCP or the access and recreational policies of the Coastal Act.

7. Conclusion

For the reasons identified above, the Commission finds that the written objections to the permit extension application do not identify changed circumstances affecting the consistency of the development with the policies of the certified Mendocino County LCP and the Coastal access and recreation policies of the Coastal Act.

EXHIBITS

1. Location Map
2. Vicinity Map
3. Site Plan
4. Grading and Drainage Plan
5. Floor Plans
6. Elevation Plans
7. Elevation Plans
8. Public Notice of Extension Request
9. Letters of Objection
10. Letters of Objection Received After 10 Working Day Period
11. Adopted Findings for A-1-MEN-97-46-E1

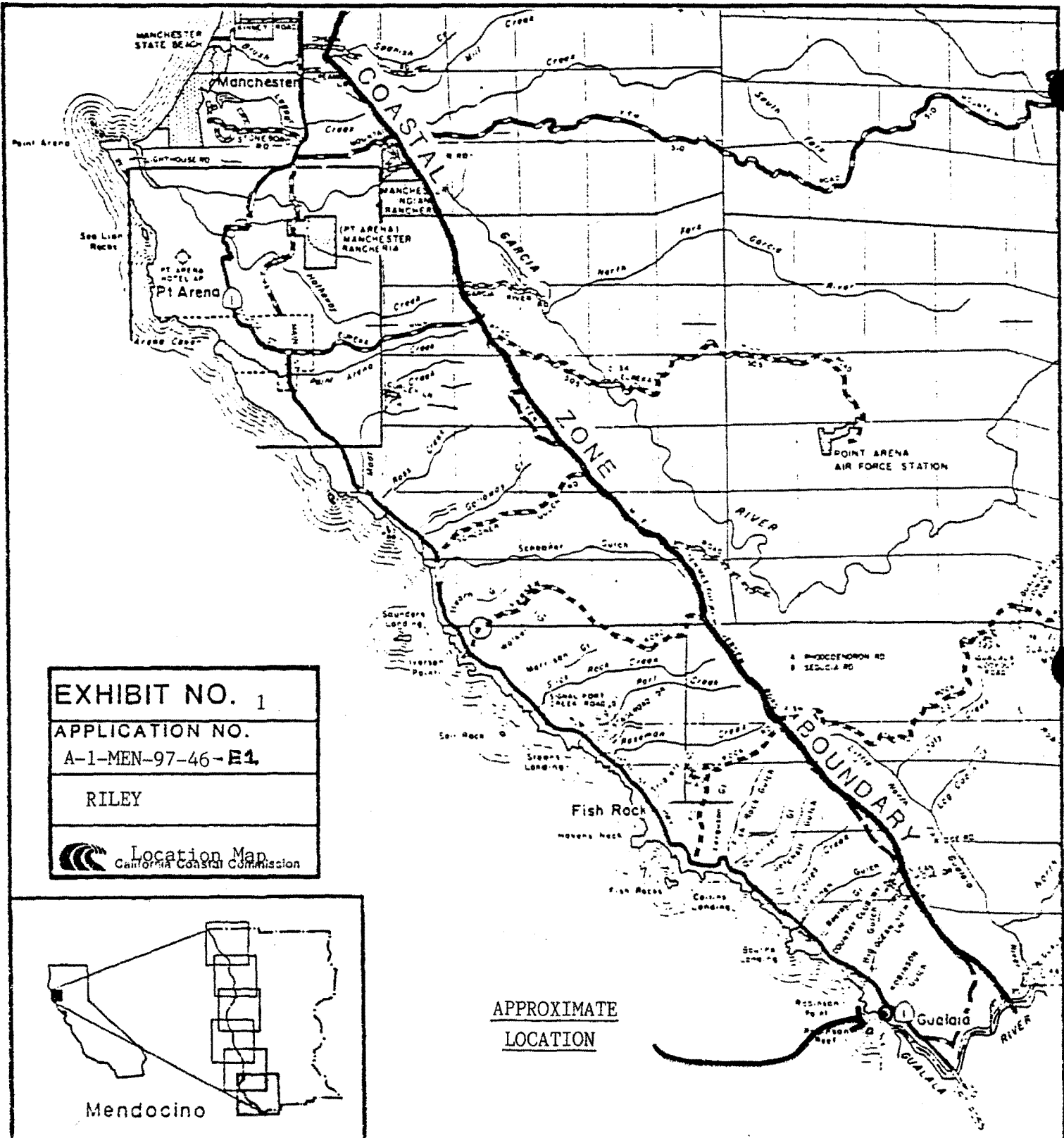
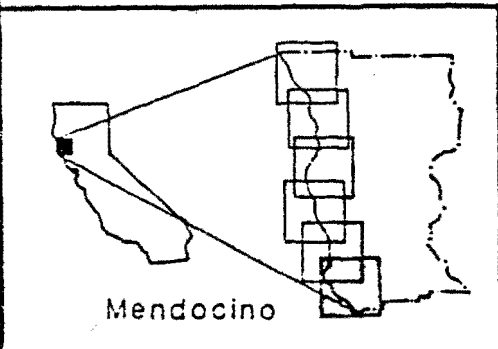


EXHIBIT NO. 1
 APPLICATION NO.
 A-1-MEN-97-46-E1
 RILEY
 Location Map
 California Coastal Commission

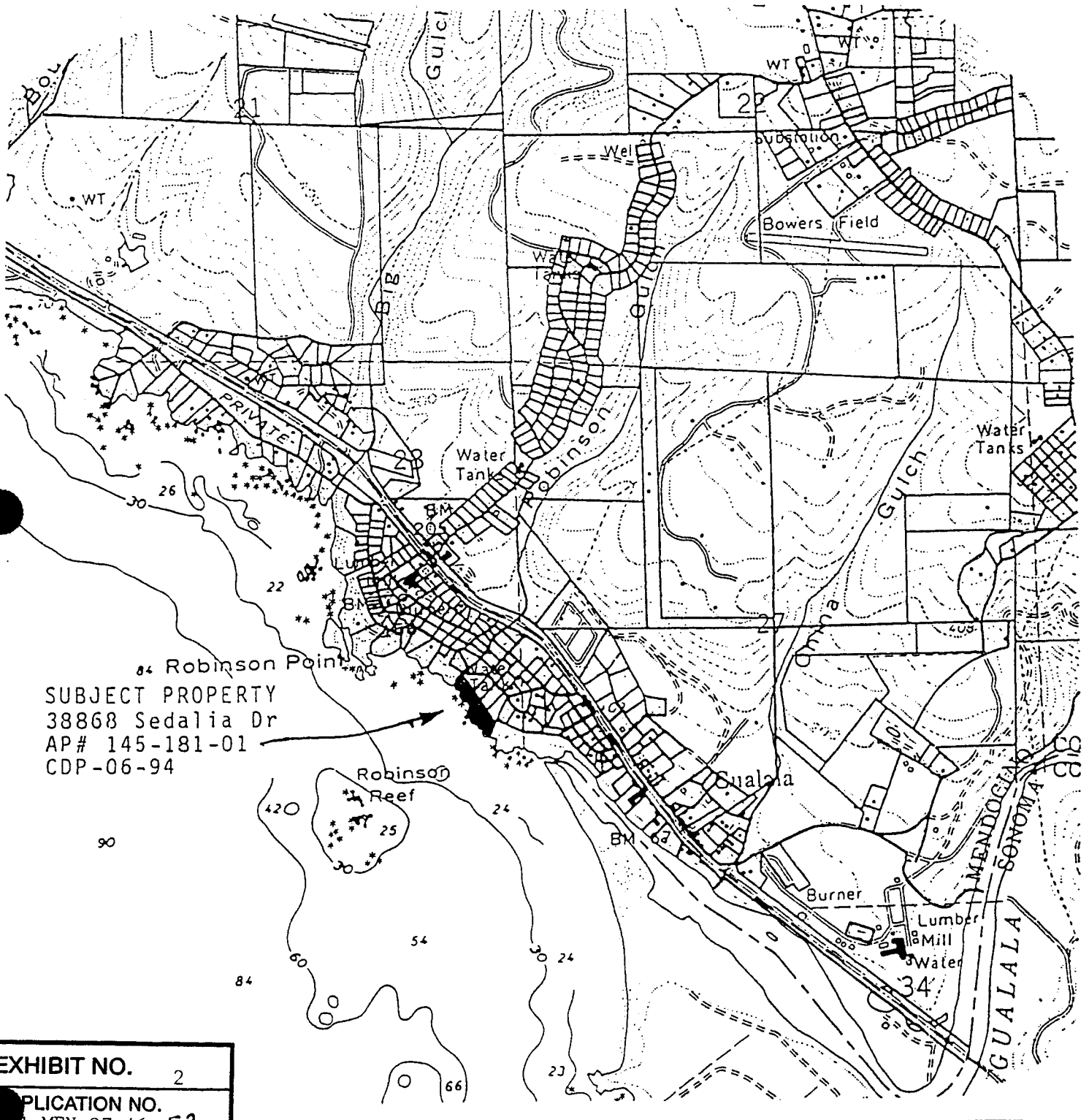


APPROXIMATE
 LOCATION



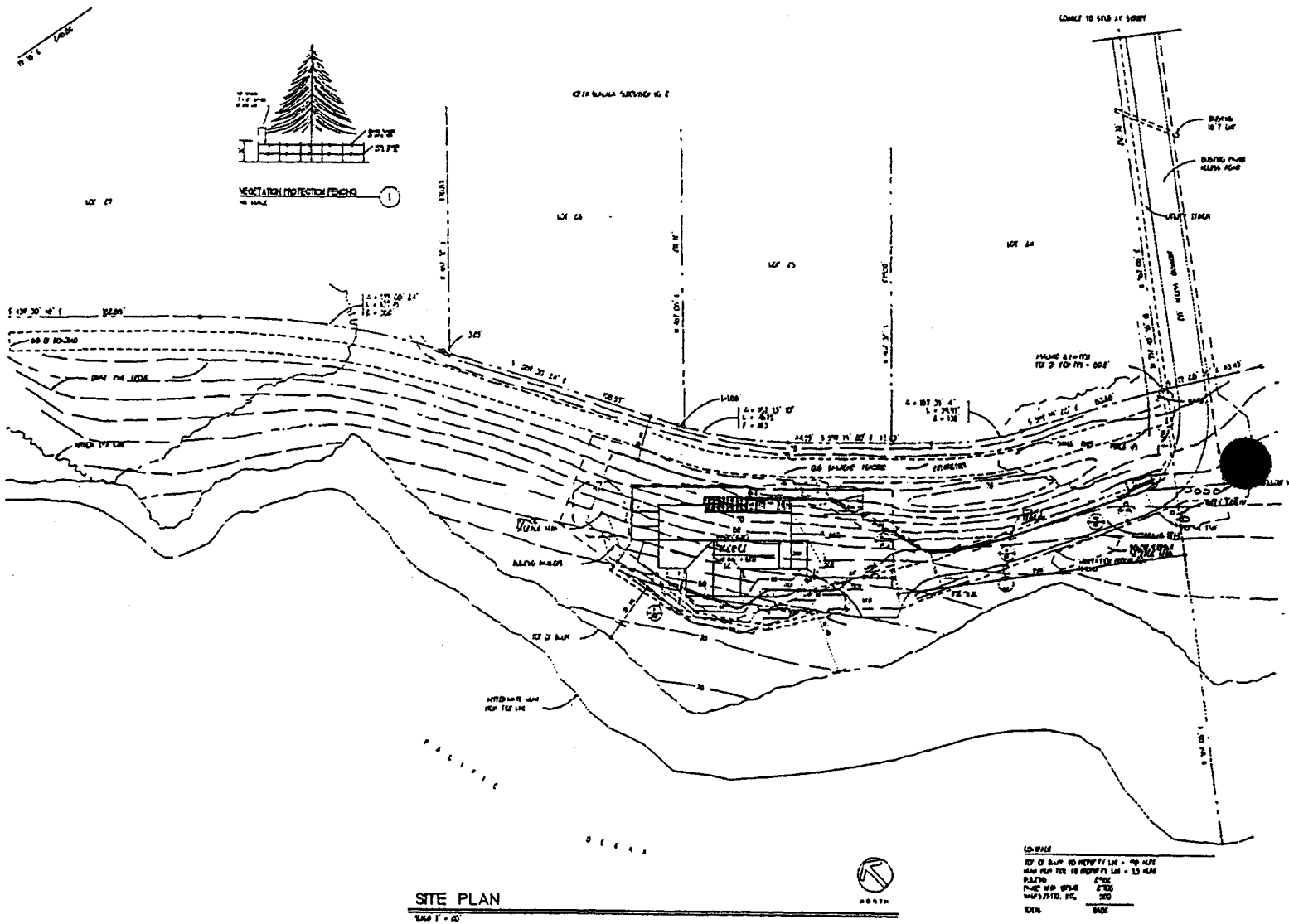
California Coastal Commission

LOCATION MAP



84 Robinson Point
 SUBJECT PROPERTY
 38868 Sedalia Dr
 AP# 145-181-01
 CDP-06-94

EXHIBIT NO.	2
APPLICATION NO.	1-MEN-97-46-E2
RILEY	
Vicinity Map	



SITE PLAN

SCALE 1" = 40'



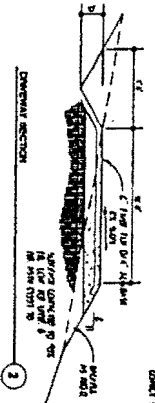
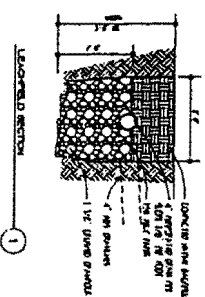
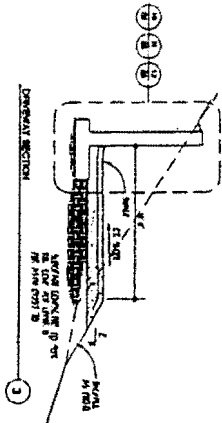
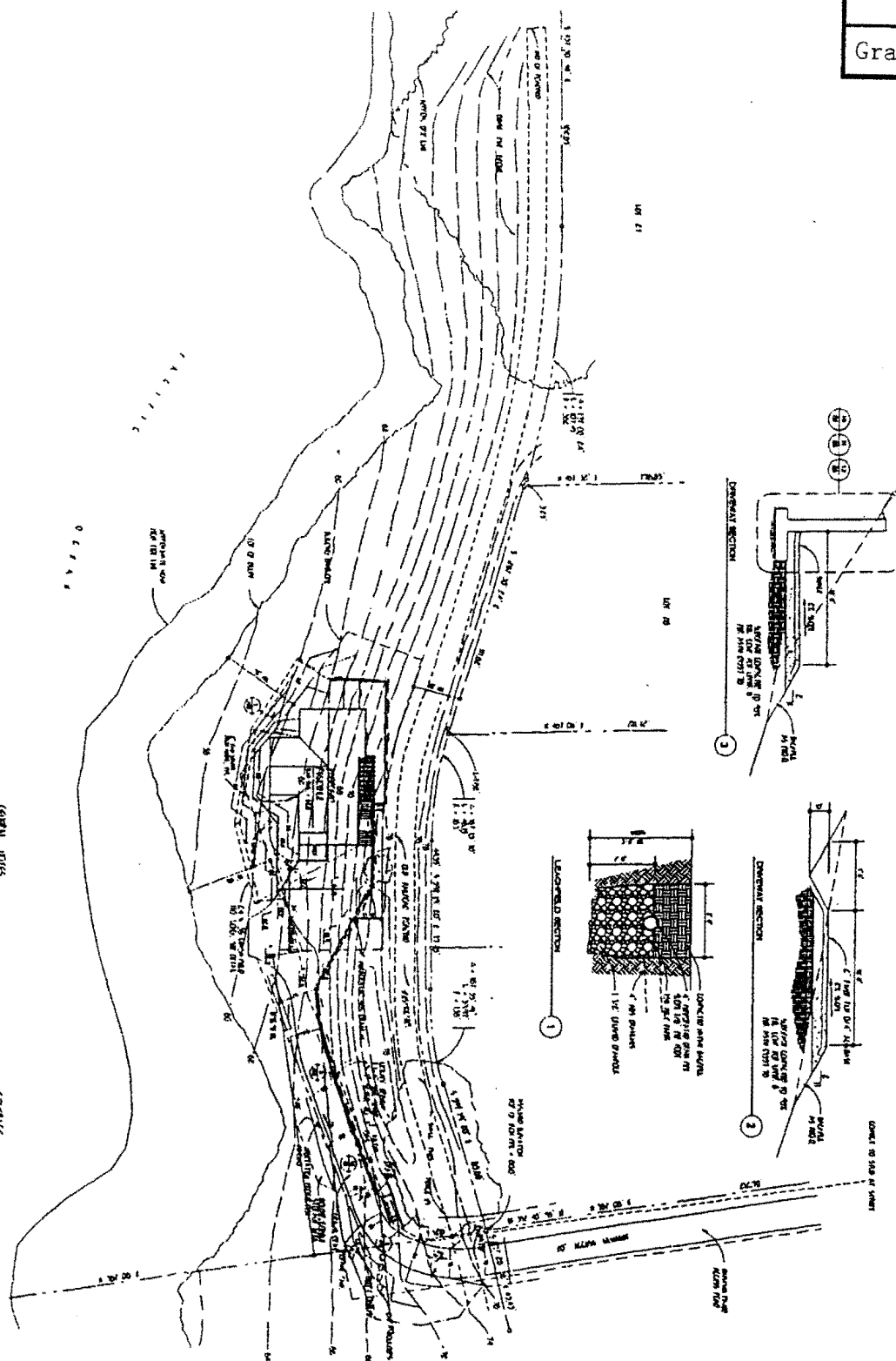
CONTRACT
 NO. OF SHEETS TO BE REVISED - 00
 DATE FOR THE PREPARED SET - 12-12-97
 DRAWN BY - JMS
 CHECKED BY - JMS
 DATE - 12-12-97
 SCALE - AS SHOWN

THIS SET AND ALL OF ITS COMPONENTS ARE
 CONTROLLED BY THE BUREAU OF LAND MANAGEMENT
 LEGAL DESCRIPTION
 SEE 149-810

EXHIBIT NO. 3
APPLICATION NO. A-1-MEN-97-46- E1
RILEY
Site Plan

EXHIBIT NO. 4
 APPLICATION NO. A-1-MEN-97-46-E1
 RILEY
 Grading and Drainage

GRADING & DRAINAGE PLAN
 SHEET NO. 1



- (SEE) NOTES
1. GRADING TO BE DONE TO CONFORM TO GRADE SHEET
 2. ALL EXISTING UTILITIES TO REMAIN UNLESS OTHERWISE NOTED
 3. ALL EXISTING UTILITIES TO BE DELETED UNLESS OTHERWISE NOTED
 4. ALL EXISTING UTILITIES TO BE DELETED UNLESS OTHERWISE NOTED
 5. ALL EXISTING UTILITIES TO BE DELETED UNLESS OTHERWISE NOTED

CONTRACT

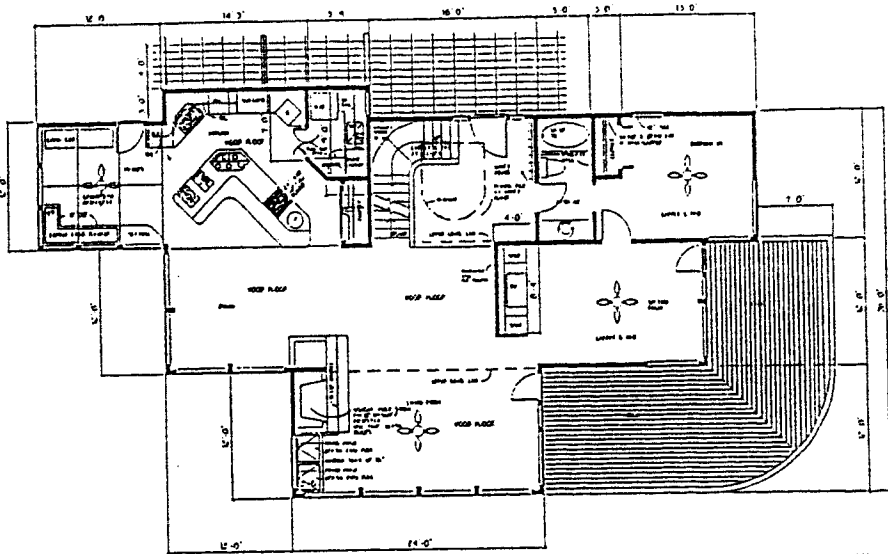
DATE OF CONTRACT: 10/1/97
 PROJECT NO.: 97-46-E1
 SHEET NO.: 1
 TOTAL SHEETS: 1
 CONTRACT VALUE: \$10,000.00
 CONTRACT NO.: 97-46-E1

RILEY RESIDENCE

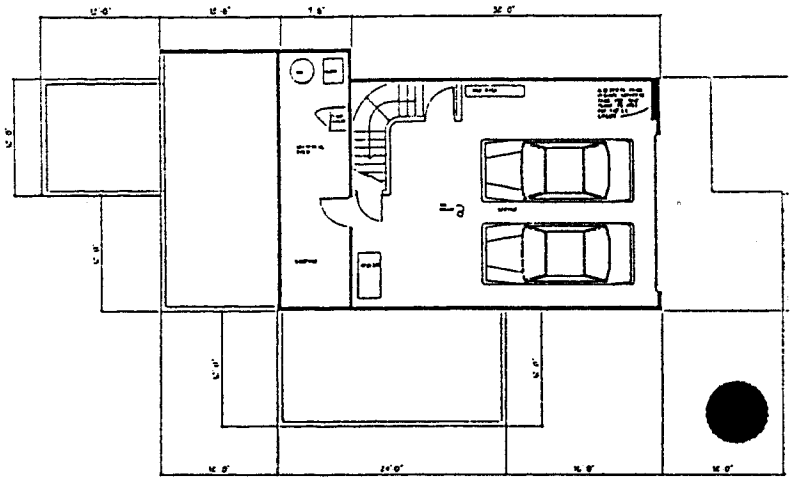
STRUCTURAL ENGINEER
 RILEY RESIDENCE

P.O. BOX 321, CALIFORNIA, CALIFORNIA
 (707) 804-3712

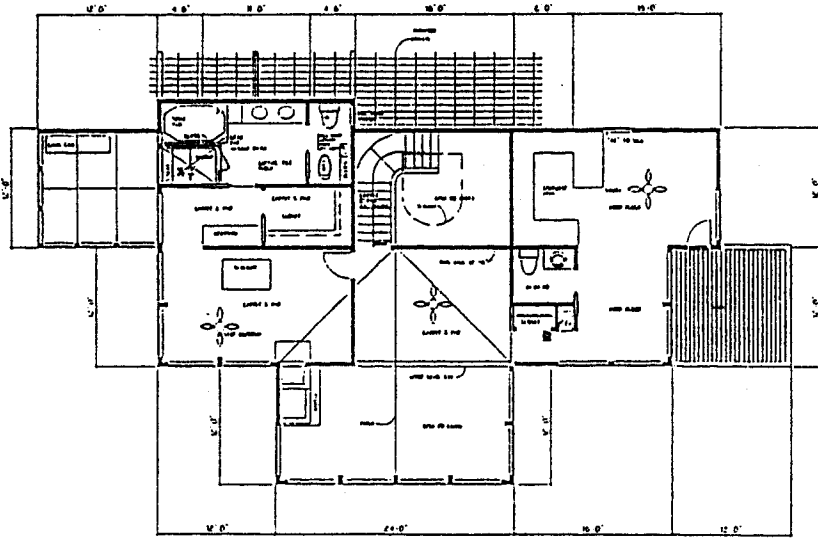
DATE: 10/1/97



main floor plan



garage/basement plan



upper level plan

EXHIBIT NO. 5

APPLICATION NO.
A-1-MEN-97-46-E1

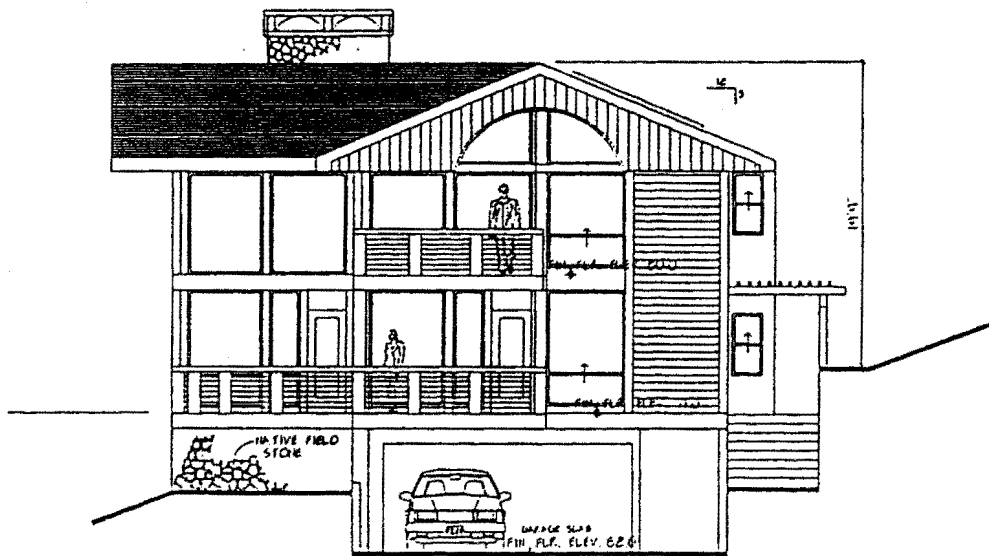
RILEY

Floor Plans



north elevation

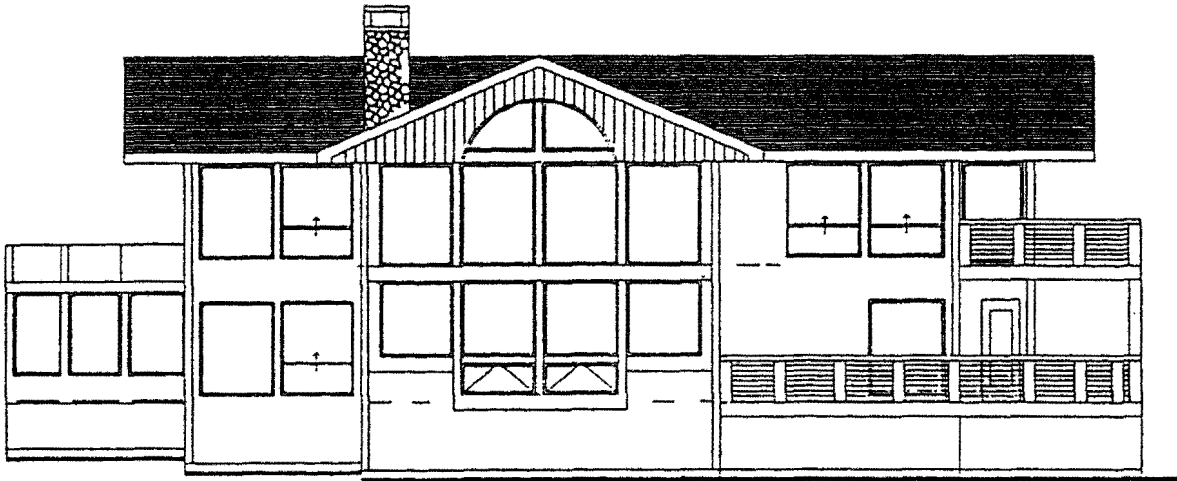
SCALE 1/4"=1'-0"



south elevation

SCALE 1/4"=1'-0"

EXHIBIT NO.	6
APPLICATION NO.	1-MEN-97-46-E1
RILEY	
Elevation Plans	

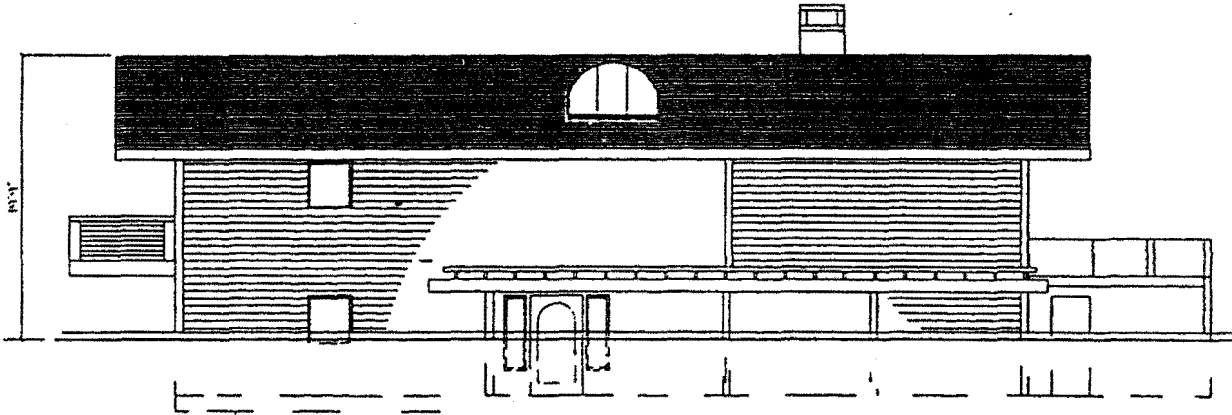


west elevation

SCALE 1/4"=1'-0"

SIDING: 1x6 HORIZONTAL CEDAR SIDING LFT SIDING RESAWN FACE
ROOFING: ELF CLASS A ROOF SHBLE BLACK COLOR

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



east elevation

SCALE 1/4"=1'-0"

EXHIBIT NO.	7
APPLICATION NO.	A-1-MEN-97-46-21
RILEY	
Elevation Plans	



CALIFORNIA COASTAL COMMISSION

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

August 3, 2000

NOTICE OF EXTENSION REQUEST FOR COASTAL DEVELOPMENT PERMIT

Notice is hereby given that: **David C. & Kathryn A. Riley**
has applied for a one year extension of Permit No **A-1-MEN-97-046-E1**
granted by the California Coastal Commission on: August 12, 1998

for **Construction of a three story single family home, garage, driveway
and grading.**

at **38868 Sedalia Drive, Gualala (Mendocino County)**

Pursuant to Section 13169 of the Commission Regulations the Executive Director has determined that there are no changed circumstances affecting the proposed development's consistency with the Coastal Act. The Commission Regulations state that "if no objection is received at the Commission office within ten (10) working days of publishing notice, this determination of consistency shall be conclusive. . . and the Executive Director shall issue the extension." If an objection is received, the extension application shall be reported to the Commission for possible hearing.

Persons wishing to object or having questions concerning this extension application should contact the district office of the Commission at the above address or phone number.

Sincerely,
PETER M. DOUGLAS
Executive Director

By: ROBERT MERRILL
District Manager

EXHIBIT NO.	8
APPLICATION NO.	A-1-MEN-97-046-E1
RILEY	
PUBLIC NOTICE	

1444 Quail View Circle
Walnut Creek, California 94596
925/933-0974

RECEIVED
AUG 11 2000
CALIFORNIA
COASTAL COMMISSION

August 9, 2000

Peter M. Douglas
Executive Director
California Coastal Commission
North Coast District Office
710 E Street, Suite 200
Eureka, CA 95501

RE: Extension of Permit No. A-1-MEN-97-046-E1

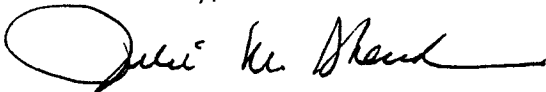
Dear Mr. Douglas:

This letter is to express my objection to the extension of the permit listed above. I own the property just north of this parcel and understand that the construction of a house on that property would cause a great deal of instability to cliffs that are already eroding at a steady pace. For example, the width of the property at one point, where they propose to put a driveway, is less than 25 feet wide!

Many objections have been raised to this project. I believe if the Coastal Commission obtains reliable, updated data, they will agree to not extend the permit.

Thank you.

Sincerely,



Julie Sheridan

EXHIBIT NO.	9
APPLICATION NO.	A-1-MEN-97-046-E1
RILEY	
LETTERS OF OBJECTION (12 pages)	

08-10-00

California Coastal Commission
North Coast District Office
710 E Street, Suite 200
Eureka, CA 95501
FAX (707) 445-7877

Re: Permit No A-1-MEN-97-046-E1

Dear Mr. Merrill,

There are a number of issues that speak against a one-year extension for Permit No. A-1-MEN-97-046-E1.

The parcel in this permit is on the bench headland directly northwest of the Gualala Point Regional Park. The proposed construction of a three-story house is in the ocean bluff vista from the Park Beach. The proposed remedy to plant trees to the southeast of the house is a fantasy. Trees in this location would not grow more than ten feet tall. Thin soil and prevailing winds are the reason for the existing grassland cover.

Long-term residents of this area mention the presence of sea-caves under this parcel. A full geologic understanding of this feature was not presented in the documents to the original permit.

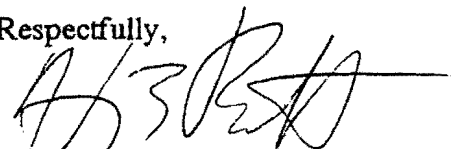
Since the summer of 1998 there has been continued scouring of the coastal bluff which is the access point for automobiles to reach the proposed construction. With the required set backs there is not enough room for the driveway.

If cuts are made into the berm on the ocean side of the old railroad right of way the existing upslope dwellings may well be compromised.

I urge the commissioners to undertake a substantive review of all aspects of this site with a particular focus on the geologic questions before the current request is considered.

RECEIVED
AUG 14 2000
CALIFORNIA
COASTAL COMMISSION

Respectfully,



Henry E. Bennett
PO Box 2023
Davis, CA 95617

2 of 12

Julie Verran
P.O. Box 382
Gualala, CA 95445

Peter M. Douglas
Executive Director
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Re: A-1-MEN-97-046-E1

Aug. 10, 2000

Robert Merrill
California Coastal Commission
North Coast District Office
P.O. Box 4908
Eureka, CA 95502-4908

RECEIVED
AUG 14 2000
CALIFORNIA
COASTAL COMMISSION

Dear Mr. Douglas and Mr. Merrill;

I object strenuously to the issuance of any permit for construction on the Riley property. I claim dangerous nuisance to my property and sole residence at 38864 Sedalia Drive, Gualala, from any disturbance of the Riley property. Even the grading needed to prepare for bringing in heavy equipment could reactivate an active slide on the Riley property which is delineated on the 1984 geologic hazard map.*

At risk is the entire current value of my property, approximately \$350,000, because I would have to disclose the hazards from the Riley project to any prospective buyer.

Numerous changed circumstances exist since the Commission vote was taken on August 12, 1998. among these are:

- The April, 2000, Heinz Center report on coastal erosion prepared for FEMA at the request of Congress. This report finds an erosion rate on the west coast of one foot a year. It estimates a national loss to erosion, if existing coastal lots outside urban centers are built out, of \$100 million per year in the value of structures alone. It also recommends doubling the flood insurance rates in coastal areas. The Coastal Commission needs to take a hard look at risky projects like the Riley proposal in light of the Heinz Center report.

- The language of the Commission's hazard restrictions has been refined and tightened since 1998, and the new language should apply to the Riley project.

- Further construction projects which were not known to the Commission in August, 1998, are proposed for other Certificate of Compliance lots created like the Riley lot from the old Gualala Railroad Easement.

- The Commission needs to address the broader problem of the Certificate of Compliance lots created on the old Empire Redwood Gualala Railroad Easement. There are 20 to 30 landowners similarly situated to my neighbors on Sedalia Drive and me, many of whom are concerned about potential damage to their property from construction on these Certificate of Compliance lots. The Riley project would provide a

3 of 12

precedent for further dangerous and unsightly coastal development, on these lots, and up and down the coast.

- In August, 1998, the latest vertical aerial photos available to help determine bluff retreat dated from 1996. Now, the 1998 and possibly the 2000 photos are available and should be added to the series used in determining bluff retreat rate.

- The Commission now has its own geologist, who can help resolve situations like this one involving multiple geotechnical reports and several properties.

- In January, 1999, my homeowners insurance was canceled based on an inspection that found my house was within 100 feet of the ocean. I sent a copy of this notice to Commission staff.* Granted that the insurance inspectors may use a different standard than the Commission for locating the ocean, still there would not seem to be room for a large, three-story, insurable house between my home and the ocean, where the Rileys propose to build one. I was able to get insurance from another company, at greater cost.

- Mendocino County Grand Jury reports for 1998/99 and 1999/2000 discussed the lack of a county grading ordinance and a high level of public concern about that.

- Funds have become available for purchase of coastal lands. Robinsons Landing, the significant northern headland at the mouth of the Gualala River, was proposed for public acquisition as long ago as 1970. It is currently divided into two Certificate of Compliance lots, one of which is the Riley lot. A trail used by the public existed from Robinson Landing to the beach in Gualala Point County Park as late as the 1970s. There is also a traditional fishing access on Robinsons Landing, as well as remains of the historic railroad used ca. 1860-1930.* Public acquisition would be an equitable solution.

- The Commission denied substantial issue to my 1999 appeal of the Hathcoat second garage proposal. That project, which changes the drainage onto the Riley parcel, is now under construction. It is likely to transfer neighborhood stormwater that formerly went toward the Gualala River to drain instead onto the Riley lot and over the bluff edge at the active slide shown on the 1984 geologic hazard map.*

In addition, there is a troubling pattern of procedural irregularities. Among them:

- The August, 1998, hearing on the Riley project was taken out of agenda order, something which rarely occurs. In the resulting confusion, the applicants' representatives were allowed 19 minutes to speak and the appellant and the Sierra Club were allowed only seven minutes. A hastily-called closed session was never backed up in writing, at least as the appellant I never received a copy, despite requests.*

- The findings for the 1998 Commission approval were not factual with respect to the size of either the proposed house or the lot. I told Deputy director Scholl that I intended to ask for a revocation and submitted the first section in 1998.* Mr. Scholl told me that I should not submit revocation materials until the permit was issued, but I never received such a notice. Was the permit issued, or is this proposed extension also the first issuance?

- I submitted a request for reconsideration of the Commission's December, 1999,

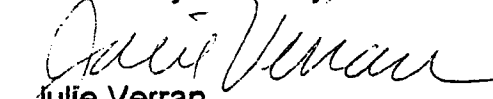
4 of 12

action denying substantial issue in my appeal of the Hathcoat second garage. Staff incorrectly told the Commission that the landslide I referred to as likely to receive the changed stormwater drainage was actually several hundred feet away. There is indeed a seriously disturbed area several hundred feet away where a series of landslides has affected at least 14 properties according to county records.* My request for reconsideration was based on the location within 100 feet of the Hathcoat project of the active landslides on the Riley and Stillman lots.* It was filed in a timely manner within 10 working days. I never saw it on the Commission agenda and I was never informed in any way that it was even considered by staff. I believe it is the plain duty of the Executive Director to respond to such requests, especially where there is a claim of nuisance.

Since 1997, I have submitted numerous photographs, maps and other documentation for both the Riley and Hathcoat appeals.* My submissions should be incorporated into the public record for this proposed extension, and I should be allowed access to this record upon request. In recent inquiries to Commission staff, I have not been able to find out whether these files are in Eureka, San Francisco, or some other location.

In summary, I object formally to issuance of Permit No. A-1-MEN-97-046-E1 on grounds of dangerous nuisance to my property, damage to public visual and other resources, and irregular procedures. There are enough changed circumstances to warrant a hearing. The handling of my concerns by the Coastal Commission and staff since 1997 raises serious concerns about the will of the Commission to protect existing coastal housing and public resources. The average working person living on the coast would be completely ruined. I expect better treatment for myself and for other petitioners beset by unwise development.

Yours very sincerely,


Julie Verran

*Indicates that I previously submitted maps, photographs or other documentation to staff and sometimes to Commissioners as well. I can submit further such materials.

Katherine Bartholomew

2535 Belladonna Dr
Redding, CA 96002-1739

Home Phone (530)224-9789

August 10, 2000

California Coastal Commission
Peter M. Douglas, Executive Director
Attn: Robert Merrill
P.O. Box 4908
Eureka, CA 95502-4908

RECEIVED
AUG 14 2000
CALIFORNIA
COASTAL COMMISSION

RE: A-1-MEN-97-046-E1

Dear Mr. Douglas,

I am writing to inform you that I sincerely object to the proposed construction mentioned above. I have a 30 year familiarity with the former Gualala Railroad Easement. This project never did conform to the Coastal Act, to the Mendocino County LCP, OR THE BOUNDS OF REASON. In addition there are changed circumstances. First, FEMA recently released a report that all construction within 500 feet of the California Coast is at risk. To build a house of any size on this parcel would be extreme folly. Every time I see this strip of land, it is narrower. Waves come right up and wash over it in the winter-time. I have observed sea caves beneath this strip of land in my childhood and I have observed that the access to the caves simply isn't there anymore. The sea has washed it away, the caves are still there. This project should be referred to FEMA for immediate review, and before any permit is issued.

New funding is available for public purchase of coastal land. This part of the railroad easement used to connect with the Gualala Point Regional Park, the trail I used as a child is completely washed away. Still, the development of the railroad easement would spoil the view from the park. The Coastal Commission should propose the vacant lots on Robinsons Landing for public acquisition.

Please apply the utmost diligence in your review of this disastrous proposal. I thank you for your consideration of this matter.

Sincerely,


Katherine Bartholomew

6 of 12

Barbara J. Gould
P O Box 13
Point Arena, California 95468
707 882 2620
August 10, 2000

RECEIVED
AUG 14 2000
CALIFORNIA
COASTAL COMMISSION

Mr. Peter M Douglas
Executive Director, Cal. Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2109

REFERENCE; Permit # A-1-MEN-970046-E1

Dear Sir:

I am writing to protest the issuance of said permit. It is for a three story, monumental type residential structure on the coast of Mendocino, in the town of Gualala. This building will be the most prominent thing that our coastal visitors see when they are standing just about anyplace on the beach by the river's outlet. I do not believe that the objective of our Coastal Commission is to allow our coastline to be a duplicate to that of Los Angeles.

Has a registered geologist been there to physically look at the soil types and the stability factor? I have seen old photos of that place, and the amount of cliffside that has been repossessed by the ocean is quite significant. I would like to be apprised of the geologist's report.

I have walked that site on an ancient and highly visible public trail; what would happen to that trail?

Perhaps a more prudent use would be for conservation on that place. Perhaps the Nature Conservancy would be interesting in acquiring it, or another such group. I do not think that is without precedent in this county.

Thank you for considering our protest to this structure.

Barbara Jeanne Gould



✓ cc. Julie Verran

2 of 12

Geoffrey C. Gould
P O Box 13
Point Arena, California 95468

August 10, 2000

RECEIVED

AUG 14 2000

CALIFORNIA
COASTAL COMMISSION

Mr. Peter M Douglas
Executive Director, Cal. Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2109

REFERENCE; Permit # A-1-MEN-970046-E1

Dear Sir:

I am writing to protest the issuance of said permit. It is for a three story, monumental type residential structure on the coast of Mendocino, in the town of Gualala. This building will be the most prominent thing that our coastal visitors see when they are standing just about anyplace on the beach by the river's outlet. I do not believe that the objective of our Coastal Commission is to allow our coastline to be a duplicate to that of Los Angeles.

Has a registered geologist been there to physically look at the soil types and the stability factor? I have seen old photos of that place, and the amount of cliffside that has been repossessed by the ocean is quite significant. I would like to be apprised of the geologist's report.

I have walked that site on an ancient and highly visible public trail; what would happen to that trail?

Perhaps a more prudent use would be for conservation on that place. Perhaps the Nature Conservancy would be interesting in acquiring it, or another such group. I do not think that is without precedent in this county.

Thank you for considering our protest to this structure.

Geoffrey C. Gould



cc. Julie Verran

8 of 12

NC

RECEIVED

AUG 17 2000

CALIFORNIA
COASTAL COMMISSION

Mr. Peter M. Douglas, Executive Director
California Coastal Commission
45 Fremont Street
San Francisco, CA 94105-2219

Dear Mr. Douglas:

Subject: Permit A-1-MEN-97-046-E1 (Riley)

Though I am not a resident of Gualala, I am interested in its development as well as its preservation, and I protest issuance of the above noted permit for a three story residence in a narrow bluff area that is sensitive to erosion, the grading of which endangers upslope properties, has historical significance and has been used by the public to access fishing, hikes along the ocean and that gives a visually pleasing welcome to travelers and residents as they approach and view the coastline of Gualala.

Further, it is important that a hearing on this matter be scheduled in Northern California, with appropriate renditions available, so the community can see what the project is and comment on its feasibility. I have been advised that previous staff reports contained some significant inaccuracies, which the commission might not be able to discern, but were obvious to residents of the area.

It is my understanding there are monies available at this time for public coastal acquisition and I urge you to re-consider Permit A-1-MEN-97-046-E1 (Riley)

Thank you for your attention to this matter.

Sincerely,



Dorothy J. Porter
P. O. Box 218
The Sea Ranch, CA 95497

9 of 12

J. California Cooper

August 14, 2000

RE: A-1-MEN- 97-046-E1

Mr. Peter M. Douglas
Executive Director
California Coastal Commission
45 Fremont, Suite 2000
San Francisco, Ca.

RECEIVED

AUG 17 2000

CALIFORNIA
COASTAL COMMISSION

Dear Mr. Douglas:

I did not receive any letter of notification or information regarding this subject, but, was fortunate enough to hear about it in time to write you because I live right across the street from the subject area, in Gualala.

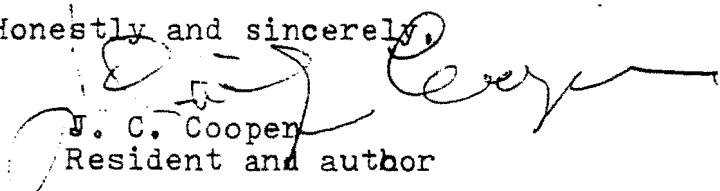
We, in this area, need a public hearing. Our taxes should warrant us that consideration. Some previous staff reports have been proven to be false.

The subject project will require a lot of grading on a narrow piece of land already gradually, daily, falling into the ocean. If a land slide should be triggered it is a great, irreversable hazard to all the houses in the immediate, near and even those at a slight distance. Erosion being the way it is on the coast we are not talking months or years. No one knows what will do what nor when. There are also many things of historic value and interest which would ultimately be dammaged or destroyed. The bluff will be destabilized and threaten homes and people who have lived here many years. These are HOMES to us...not get-aways. We LIVE here...safely...so far.

I respectfully request a public hearing set in Northern California which some of us can get to. I am seventy. Not old, but not too young for going to long distances.

Please...give us consideration. We have been tax payers a long, long time.

Honestly and sincerely,


J. C. Cooper
Resident and author

RECEIVED

AUG 17 2000

CALIFORNIA
COASTAL COMMISSION

Mr. Peter M. Douglas,
Executive Director,
California Coastal Commission,
45 Franklin
Suite 1000, San Francisco, CA 94102-1117

Dear Sir,

I wish to submit an objection to the Coastal Commission issuing permit as follows: A-1-MEN-07-016-E1(BLETT).

I have lived on the coast in Guakula together with my husband, undersigned, since 1985. I am very familiar with that piece of land. It is totally unsuitable for a building for the following reasons.

1. The winter storms crash up on to that Headland and there is evidence that a previous structure has been washed away.
2. On a low tide I have walked below those cliffs and seen how unstable they are with caves and crumbling rocks - are clearly seen and can be touched, and felt to fall apart.
3. The Headland is part of the spectacular view entering Mendocino County which would be ruined by a structure being built there. I would be further a horrible destruction of the view from Gualala Point Park.
4. We in this town depend on our Tourist trade, we have to protect our best asset which is our Coastal Scenery.

I would also like to refer to a very popular book - "Can you Survive your Escape?" By Roger Verran published 1978 Pages 6, 90, 11, and 124.

We also request that a public hearing be held in N. Cal. Since you set the last one in Huntington Beach and Oceanside.

There are further objections any required grading will create a hazard to the homes on the upslope properties especially those of the Verran's and the late John and Lis Saxon now owned by their daughters.

There is also fishing access on the property and too the best preserved of the old Railway trestles from the old rail route from about 1860-1930.

We trust you will give this letter serious consideration,

Yours sincerely
Daphne Marsden

11 & 12
Verran's daughters

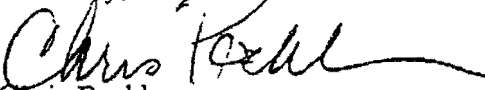
8/15/00
Peter Douglas
Executive Director
Peter Merrill
District Manager
California Coastal Commission
North District Office 710 E. Street Ste 2000
Eureka, CA 95501

RECEIVED
AUG 17 2000
CALIFORNIA
COASTAL COMMISSION

Dear Mrss Douglas and Merrill,
I have recently reviewed the material regarding the application for issuance of permit No.A-1-MEN-97-046-E1. This includes numerous photographs, maps and documentation. I am also familiar with the area in question due to my local residence and through attention to the erosion issue as documented in the local news media. I most recently recall an incident adjacent to the property in question that involved a garage sliding off the cliff and falling to the beach below. The motor home inside was shown resting on the beach also.

After a review of the material it becomes evident that further agency review and a hearing is called for. The charge of the Coastal Commission is to protect public resources, existing housing, and to prevent unsafe development. I would hope that you take this responsibility seriously enough to bring the issues in this case to full light.

Sincerely,


Chris Poehlmann
Gualala River Improvement Network
P.O. Box 61
Annapolis, Ca 95412

12 of 12

EXHIBIT NO.	10
APPLICATION NO.	A-1-MEN-97-046-E1
RILEY	4 (pages)
LETTERS RECEIVED AFTER 10 WORKING DAY PERIOD	

Re: A-1-97-046-MEN-E-1
 To: Robt. Merrill from J. Verran
 I presented this to the Mendocino
 Super at their meeting 8/22/00
 please add to public record. I gave
 them a copy of Exec. Sum. of FEMA 4/2000
 su. report.

August 22, 2000

Julie Verran
 38864 Sedalia Drive
 P.O. Box 382
 Gualala, CA 95445

RECEIVED
 AUG 24 2000

CALIFORNIA
 COASTAL COMMISSION

Supervisor David Colfax
 Mendocino County Board of Supervisors
 501 Low Gap Road
 Ukiah, CA 95482

Dear Supervisor Colfax, Members and Staff of the BOS;

In 1997, I appealed the Riley project, a large house proposed for a lot created by Certificate of Compliance in 1991 from part of the old Gualala Railroad Easement, on the ocean side of four lots created ca. 1960 in the North Gualala Subdivision, one of which I own. I contended that the Riley project was located on unstable blufftop ground and its construction would endanger the upslope homes, (I claimed, and still claim, dangerous nuisance to my home from construction on the Riley lot), and would be visible from public places, including Highway 1 where it enters Mendocino County from the south. I also raised drainage issues and access issues, since the access to the Riley lot is a road built ca. 1991 down a 20-foot county drainage easement.

My appeal was denied by the BOS and I appealed to the Coastal Commission, which voted to grant the Riley permit in August, 1998, subject to conditions. (I had submitted a very good and extensive geotechnical report to the Commission, which cost me \$5,000.) As I understand it from Coastal Commission staff, the Rileys are now seeking to comply with those conditions, and request an extension of their permit. The extension request is under staff review as A-1-97-046-MEN-E1. The 10-day time frame for objections to the extension based on changed circumstances has run, but I believe the BOS could still have input, which I request.

In 1999 I appealed a related project directly to the Coastal Commission because of the high cost of appeal to the BOS, the second detached garage on the Hathcoat property reached by the access road to the Riley property (the drainage/access easement is an easement to cross the Hathcoat property, as I understand it). I contended, as I did at the Coastal Permit hearing in Fort Bragg, that the Hathcoat second garage would be built on land delineated as unstable on the 1984 Davenport map and would change the drainage which affects an active bluff-edge slide on the Riley property also shown on the Davenport map of the area. A master copy of that map, which is the geological hazard map for the county, is in the Map Room at Low Gap. I also contended that the second garage would be visible from Gualala Point Regional Park.

This appeal was not granted substantial issue, so the drainage question is back with the county. A ca. one-foot culvert draining part of the Sedalia Drive neighborhood discharged stormwater onto the site of the Hathcoat garage. At the time of my appeal

Verran to BOS, 8/22/00, page 2

to the Coastal Commission, the county was requiring Mr. Hathcoat to extend the culvert 20 feet. I believe that could change drainage that went toward the Gualala River from the end of the culvert so that the stormwater went over the bluff at the active slide (Davenport, 1984) on the Riley property.


Please consider the following, which I believe are changed circumstances affecting both the Hathcoat permit granted by the county and the requested extension of the Riley permit granted by the Coastal Commission. Please ask the Coastal Commission to have their own geologist look into the situation of the Certificate of Compliance lots along the old Railroad Easement. This situation affects 20-30 properties besides mine, and could create liability for the county. Please ask county staff to check the relocated culvert on the Hathcoat property and determine where it now conducts the Sedalia Drive stormwater.

1) On or about November 12, 1999, at about 8:30 p.m., I felt and heard four cliff collapses in succession in the vicinity of the access road to the Riley property. They were not visible on the vegetated part of the bluff when I checked the next day. I now believe, from inspection of the cliff, that the rocks at the base of the active slide (Davenport, 1984) fell into the sea. This could be determined by examination of vertical aerial photographs, and possibly by comparison of land-based photos.

2) On August 14, 2000, at about 1:30 p.m., accompanied by Britt Bailey, a member of the Gualala Municipal Advisory Council, I asked Mr. Hathcoat, who was working on construction of his second detached garage, to show me where the relocated culvert is. He refused. It is not visible, while the former culvert was obvious. I can submit photos showing its former location.

I will be happy to show you and county staff what I am talking about, at your convenience.

Sincerely,


Julie Verran
884-3740

cc: California Coastal Commission



J. DAVID COLFAX
Supervisor
FIFTH DISTRICT

Telephone:
Office: (707) 463-4221
Office Fax: (707) 463-4245
Home/Fax: (707) 895-3241
E-Mail: colfaxd@co.mendocino.ca.us

COUNTY OF MENDOCINO
BOARD OF SUPERVISORS
501 LOW GAP ROAD, ROOM 1090
UKIAH, CALIFORNIA 95482

Sept. 11, 2000

RECEIVED
SEP 11 2000

CALIFORNIA
COASTAL COMMISSION

California Coastal Commission
710 E Street, Suite 250
Eureka, CA 95501-1865

Re: A-1-MEN-97-046-E1

Dear Commissioners:

As the Fifth District Supervisor, Mendocino County, I wish to register my objection to the issuance of Coastal Permit A-1-MEN-97-046-E1 Riley. There is considerable concern in my district about the construction of residences on scenic coastal bluffs, a concern that is not entirely recognized by my fellow supervisors since none of them, to my knowledge, has visited this particular site in order to see the impact this project would have on the coastal viewshed.

Please consider rejection of this project.

Very truly yours,

J. David Colfax, Ph. D.
Supervisor

3 of 4

1444 Quail View Circle
Walnut Creek, California 94596
925/933-0974

September 21, 2000

Peter M. Douglas
Executive Director
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Robert Merrill
California Coastal Commission
North Coast District Office
P.O. Box 4908
Eureka, CA 95502

Re: A-1-MEN-97-046-E1

Dear Mr. Douglas and Mr. Merrill

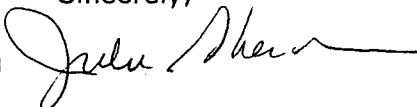
We are again writing to express our objection to the above petition for a permit to build on the Riley property in Gualala. Now, because the Rileys did not conform to the requirements until the last minute, they are requesting for an extension *and* a permit. We ask that you consider the following:

- The property at 38856 Sedalia Drive has been owned by our family for 37 years. The cliffs below the houses along the ocean have always been open to the public and we constantly see fishermen, hikers enjoying them. This property should be public domain and available for everyone's use.
- We request that the Coastal Commission hold a de novo hearing in San Francisco and that we be notified in advance so the neighbors will be able to make arrangements to attend and express their opinions. It is not logical to hold a hearing in Southern California regarding items that affect residents of the Northern part of the state!
- We also request that before voting on this petition, stroy poles be required so that members of the Coastal Commission and the public will be able to determine the exact size and placement of the proposed Riley house.
- I have not yet received a copy of the staff report given to the commission on Wednesday, September 13, 2000. Will you please send one and all follow-up reports to me at the address above.

The purpose of the Coastal Commission is to preserve our beautiful coastline for *everyone* to enjoy. Please consider this when rendering your decision.

Thank you for your consideration.

Sincerely,



Julie Sheridan

CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA

45 FREMONT, SUITE 2000

SAN FRANCISCO, CA 94105-2219

(415) 904-5260



20 October 1998

David and Kathryn Riley
520 Edgehill Drive
Gibsonia, PA 15044-9221

RE: Commission action on Revised Findings for Coastal Permit No. A-1-MEN 97-46
(Riley)

Dear Mr. and Mrs. Riley:

This is to notify you of the Coastal Commission's action on the Revised Findings for Coastal Permit No. A-1-MEN-97-46. The Coastal Commission completed its action on the Revised Findings for Coastal Permit No. A-1-MEN-97-46 at its October 16, 1998 public hearing in Oceanside. The Commission made some minor changes to the Revised Findings, and then, by a unanimous vote of 6-0, the Commission approved the Revised Findings as revised.

Pursuant to this approval, we are transmitting to you a copy of the Adopted Findings, which include the minor changes that the Commission incorporated into the Revised Findings.

If you have any questions, please don't hesitate to call.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jo Ginsberg'.

JO GINSBERG,
Coastal Planner

cc: Frank Bacik
Linda Ruffing

EXHIBIT NO.	11
APPLICATION NO.	A-1-MEN-97-46-E1
RILEY	
ADOPTED FINDINGS (1 of 24)	

CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA

REEMONT, SUITE 2000
FRANCISCO, CA 94105-2219
(415) 904-5260

Hearing Date: Oct. 16, 1998
Staff: Jo Ginsberg
Commission Action: **Approved Revised Findings 6-0,
10/16/98**

ADOPTED FINDINGS

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

APPLICANT: **DAVID AND KATHRYN RILEY**

AGENTS: (1) Ralph Matheson; and
(2) Rawles, Hinkle, Carter, Behnke & Oglesby

LOCAL GOVERNMENT: Mendocino County

DECISION: Approval with Conditions

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

PROJECT DESCRIPTION: Construct a two-story, 2,814-square-foot, single-family residence with a subterranean garage, driveway, sewer lift pump, drainage system, and grading.

APPELLANT: Julie Verran

COMMISSIONERS ON THE PREVAILING SIDE: Commissioners Allen, Armanasco, Dettloff, Flemming, Kehoe, Nava, Potter, Reilly, Tuttle, Wan, and Chairman Areias.

SUBSTANTIVE FILE DOCUMENTS: Mendocino County Local Coastal Program; County Permits CDP #06-94 (R/MOD) and #06-94; Coastal Commission CDP's 80-CC-135 (Plenty), 80-CC-102 (Bobba), 1-86-107 (Hilt), and 1-88-195 (Hoffman).

STAFF NOTE

1. Adopted Findings.

At the Commission meeting of August 12, 1998, the Commission considered the project de novo and approved the project with conditions. However, as the Commission's actions on the project differed from the written staff recommendation, staff prepared a set of revised findings dated September 25, 1998 for the Commission's consideration as the needed findings to support its action. The Commission held a public hearing and approved these revised findings at the meeting of October 16, 1998, with some minor changes.

The following findings were adopted by the Commission on October 16, 1998, upon conclusion of the public hearing. The resolution of approval and conditions adopted on August 12, 1998 are included for reference.

I. Resolution of 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. Assumption of Risk/Future Response to Erosion:

PRIOR TO ISSUANCE of the Coastal Development Permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the area governed by A-1-MEN-97-46 may be subject to extraordinary hazards from landslides, slope failure, and erosion, and that the applicant assumes the liability from such hazards; (b) that the applicant unconditionally waives any claim of liability on the part of the Commission and agrees to indemnify and hold harmless the Commission and its officers, agents, and employees relative to the Commission's approval of the project for any damage due to natural hazards; (c) that the applicant agrees that no bluff

or shoreline protective devices shall be constructed on the parcel, and (d) that the applicant accepts sole responsibility for the removal of any structural debris resulting from landslides, slope failures or erosion on the site.

This document shall run with land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required because the change is not substantive in nature.

2. 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 plans for the house and final site drainage plans for the proposed project. Except as concerns the relocated and redesigned driveway, these plans shall be consistent with all recommendations made in the Geotechnical Investigation Report prepared by BACE Geotechnical, Inc. dated June 30, 1992, which was submitted with the application, with the four addendum letters submitted in 1997, and with the recommendations made by Rogers/Pacific in their review dated November 28, 1997. In particular, the plans shall be consistent with the recommendations regarding site grading, construction of the foundation and retaining walls, blufftop setback for the house, and site drainage.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. Proposed changes to the approved final plans shall not occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required because the change is not substantive in nature.

3. 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 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. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. Proposed changes to the approved final plans shall not occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required because the change is not substantive in nature.

4. 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.

5. 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 or those required to be removed for the relocation of the driveway as required in Special Condition No. 2. Any future removal of trees shall require a new coastal permit or an amendment to Coastal Permit No. A-1-MEN-97-46.

6. Archaeological Resources:

If any archaeological or paleontological 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 Setting, Description, and History.

a. Project and Site Description:

The 1.2-acre subject site is located west of Highway One in Gualala, at the 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. 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 two-story, 28-foot-high, 2,814-square-foot single-family residence with an attached, subterranean 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.

b. Project History.

In 1994 the County approved a coastal permit for residential development on the subject site, CDP 06-94. 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. 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.

The Commission received from Julie Verran an appeal of the County of Mendocino's decision to approve the project. The appellant filed the appeal in a timely manner on July 9, 1997, within 10 working days of receipt by the Commission of the Notice of Final Local Action.

At the Commission meeting of August 14, 1997, the Commission opened the hearing and determined that a substantial issue existed with respect to the grounds on which the appeal had been filed. Staff had prepared a recommendation with regard to the merits of the permit application, but the Commission decided to continue the public hearing to a later date and took no action on the de novo portion of the project that day, requesting additional geologic information.

Additional geologic information was submitted, and staff prepared another staff recommendation with regard to the merits of the permit application. The Commission heard the project de novo at the meeting of March 11, 1998, but again decided to continue the hearing to a later date, directing staff to request additional information from the applicants on sea caves and on the applicants' economic interest in the property. The latter information would be important for considering whether a denial of the project would constitute an unconstitutional takings of private property. The applicants provided the Commission with additional information regarding sea caves, but declined to provide the Commission with information regarding the applicants' economic interest in the property.

2. Geologic Hazards:

The subject site is located upon Robinson's Landing, the northernmost of two parcels which used to be owned by the Gualala Railroad, a local lumber railroad that ran between Bourn's Landing and the Gualala Lumber Company mill in Gualala between 1875 and 1922. The site is located on a narrow coastal terrace atop rugged sea cliffs between 54 and 65 feet high that contain several "sea caves." The proposed house site is situated between the precipice of the sea cliffs and a cut/fill embankment built for the old railroad, which lies between 100 and 200 feet landward of the face of the sea cliff. The house would be partly built on the terrace, and partly built on the lower part of the hillside. The house is proposed to be set back 35 feet from the bluff edge, while the driveway is proposed to be as close as 15 feet to the bluff edge. Because of the close proximity of the proposed house to the bluff edge, the project raises concern about geologic stability and whether the development would be threatened by bluff retreat and other geologic hazards during its economic life.

a. LCP Policies.

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 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.

b. Geotechnical Evaluations of the Site.

A geotechnical report was 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.

The appellant for the project hired another geologist, Dr. Kojan, who disagreed with some of the conclusions and recommendations made by BACE Geotechnical, particularly regarding bluff retreat and the recommended building setback. At the August 14, 1997 hearing, the Commission indicated that one of its major concerns regarding the project was whether or not the project would contribute to geologic hazards in a manner inconsistent with the certified LCP. The Commission noted that there were differing opinions regarding geologic hazards presented by the geologists representing the applicants and the appellant, and directed staff to request a geologic report prepared by a third party that had been agreed upon by the geologists

representing the applicants and the appellant. The new report was to determine bluff retreat based on a review of historic photos and other available information, investigate through borings whether the various sea caves on the subject site extend under the bluff close enough to the proposed house to threaten development during its 75-year economic lifespan, and investigate thoroughly the issue of seismic hazard to determine whether any faults that may exist on or near the property pose a significant threat to the structure.

The third party chosen was the geotechnical engineering firm of Rogers/Pacific, who prepared a report dated November 28, 1997 (see Exhibit No. 10). This report assesses the site, reviews ground and aerial photographs, and reviews and evaluates the geologic reports prepared for the site. At its hearing of March 11, 1998, the Commission expressed additional concerns regarding sea caves and erosion. At the request of staff, Dr. Rogers, now working for Geolith Consultants, prepared an additional report on sea caves on the subject site, and the potential geologic hazards associated with them (see Exhibit No. 25).

c. Bluff Retreat.

Based on a review of the site and of historic photographs, the Geotechnical Report prepared by BACE Geotechnical, the applicants' original geologist, identifies 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. The edge of the bluff is considered to be the portion of the property where there is a clear break in slope. 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 would adequately drain the site. This arrangement would be in lieu of collecting the runoff from the site down the face of the bluff, which would be inconsistent with policies of the LCP. The applicant has also proposed to employ a licensed civil engineer to do the structural design of the residence, and has indicated that the structural design would include lateral design calculations to resist seismic and wind forces according to the adopted Uniform Building Code of Mendocino County.

Dr. Kojan, a geologist hired by the appellant, disagreed with the bluff retreat figures in the BACE report, asserting that the "claim of less than 1 inch per year is unsubstantiated, undocumented and is therefore incomplete." Dr. Kojan states that based on his analysis of cliff retreat obtained from large-scale enlargements of historic photographs, a blufftop setback of at least 100 feet is indicated.

Since there was conflicting information on geologic hazards presented by the geologist representing the applicants and the geologist representing the appellant, the Commission

requested that a third geologist, agreed upon by both applicants and appellant, prepare a new geologic survey.

The geotechnical engineering firm of Rogers/Pacific, agreed upon by both the applicants and the appellant, prepared a new report dated November 28, 1998 (see Exhibit No. 10) which assesses the site, reviews ground and aerial photographs, and reviews and evaluates the geologic reports prepared for the site. The Rogers/Pacific report concludes that Dr. Kojan's estimates of cliff retreat "puts one in the expectable ballpark of values." Rogers/Pacific recommends that an average cliff retreat rate of five inches per year be applied to the site, resulting in a structural setback of 75 times that amount, or 31.25 feet. As noted above, the house is actually proposed to be set back 35 feet from the bluff edge, greater than the 31.25-foot distance. Rogers/Pacific does point out that even with such a setback, any structure built that close to the headlands is "certainly going to get physically splashed during extreme storm events, and may even experience overt splash damage." The Commission finds that the Rogers/Pacific geotechnical report provides the most recent and comprehensive analysis of bluff retreat at the subject site and that the proposed 35-foot setback is consistent with that recommendation.

Rogers/Pacific further states that the driveway should be pulled back from the cliff face as far as practicable in the vicinity of the erosion cusp where modest levels of erosion have been noticed over the past 25 years, likely due to an unnatural concentration of surface flow emanating from the steep access road (see Exhibits 8 and 9). The report suggests that proper design and construction of the paved driveway could alleviate much of this erosion. The report recommends that the driveway pavement be cross-sloped 5% towards the uphill side, and runoff then be collected, conveyed, and discharged away from the driveway, preferably directly onto exposed bedrock just beneath the terrace colluvium

The report further states that if properly constructed, the driveway could safely encroach to within 25 feet of the bluff edge by utilizing an up to 10-foot-high retaining wall against the west side of the old railroad embankment. The report recommends that any unsupported cuts not be made into the embankment, and that the retaining wall be designed as a fully-drained crib wall, which can be backfilled with crushed rock to enhance drainage, and covered with plants to soften the visual appearance. Although this a viable option, the Commission finds that it is preferable to avoid cutting into the railroad embankment and risk destabilization of the bluff, which might adversely affect not only the subject property but also adjoining properties. The Commission notes that the Rogers/Pacific report states on page 15 that "the old railroad right-of-way, cut into the natural bluffs behind the proposed residence, is a good area to avoid. (emphasis added) It will continue to experience shallow, localized slope failures, as occurred this past winter. These failures will eventually ravel up slope, and enlarge in volume, but

the rate at which such erosion occurs is not linear, it is episodic, a function of the weather."

Avoiding the construction of an up to 10-foot-high retaining wall to allow for the driveway to be located farther inland from the bluff edge as recommended by Rogers/Pacific would also be more consistent with the intent of Zoning Code Section 20.500.010. This section states in part, that new development shall not require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. Locating the driveway where the applicants propose to build it would avoid having to substantially alter a natural landform with a retaining wall, a form of protective device.

The Commission thus finds it is preferable to allow the driveway to be constructed where it is proposed, approximately 15 feet from the edge of the bluff, where no retaining wall will be necessary to support it. This proposal is consistent with the recommendations made by BACE Geotechnical. The Commission understood that neither now nor in the future should the driveway be moved inland in a way requiring cutting into the bluff.

The Commission notes that the appellant had previously raised a number of specific concerns regarding bluff retreat at the subject site. In her letter of April 2, 1998 (see Exhibit No. 14), the appellant referred to the situation at Big Lagoon in Humboldt County, also referred to in a letter from the Sierra Club (see Exhibit No. 26), where there has been recent bluff failure, resulting in the loss of property. The Commission understood the testimony to indicate that physical conditions sometimes change in sudden and dramatic ways. The Commission finds that Big Lagoon is approximately 200 miles north of the subject site, and has a very different geologic make-up. The geology of even adjacent blufftop parcels can vary tremendously; that is the reason why the Mendocino County LCP calls for site-specific geologic evaluations to account for this fact. The fact that there was bluff failure at Big Lagoon 200 miles to the north in no way affects the potential geologic hazards on the subject site.

In recent letters, the appellant and the Sierra Club also noted a concern about a landslide that occurred in March of 1995 on Coral Court to the north of the subject site (see Exhibits 14 and 26). The Commission finds that the Coral Court slide occurred several hundred yards to the northeast of the Riley site in another drainage, on an upslope parcel separated from the coast by several other residential lots. Furthermore, the cause of the slide on Coral Court was not due to bluff retreat, but due rather to a unique set of circumstances peculiar to that site. According to a geotechnical investigation prepared for the Coral Court site, the failure occurred as a debris flow consisting mostly of fill soil, wood waste, and debris derived from a former lumber mill located near the head of the landslide. Apparently, during operation of the mill, fill was pushed over the top edge of a steep-sided drainage gully. As a result of the landsliding, most of the

debris in the upper portion of the landslide flowed downslope into the portion of the landslide, the Coral Court cul-de-sac, and three adjacent residential parcels. The landslide was triggered by heavy rains which caused surface drainage from Pacific Drive and the Robinson Reef cul-de-sac to flow onto the area of the landslide. Subsurface groundwater flow along the base of the fill and the base of the terrace deposits also probably occurred prior to sliding. The report concluded that poor drainage conditions, loose fill on the affected slope, and over-steep slope inclination all probably contributed to the landslide.

In contrast, the proposed Riley residence is not proposed to be located on a hillside like the Coral Court site, but, rather, on a coastal terrace with one side abutting into the railroad grade. In addition, the Riley site was never used as a dump for lumber mill waste, as was the Coral Court site. Thus, the fact that there was a landslide at Coral Court is in no way indicative of a similar slide occurring at the Riley site.

Finally, the appellant implies in her letter of July 18, 1998 that neither BACE Geotechnical nor Dr. Rogers utilized aerial photography to assess the rate of bluff retreat as called for in LUP Policy 3.4-7. Dr. Rogers did an extensive review of historic aerial photographs and ground photographs of the area, as well as reviewing topographic and geologic maps, government reports and research dissertations, the engineering geologic reports prepared by both BACE and Dr. Kojan, and historic information from published and non-published sources; in addition, Dr. Rogers performed a site reconnaissance on the Riley property (see Exhibit No. 10). In fact, the Commission finds that the report prepared by Dr. Rogers is a comprehensive and complete geologic investigation. Furthermore, the Rogers report, prepared in November of 1997, along with the additional report on sea caves prepared in July of 1998, constitutes the most recent work done on the site (the Kojan report was done in August of 1997).

To ensure that the project will not create any geologic hazards, the Commission has attached to the permit several Special Conditions. Special Condition No. 2 requires submittal of final foundation and site drainage plans that incorporate all recommendations of the BACE Geotechnical report and addendum letters, except regarding the driveway, and also incorporate all recommendations of the geotechnical report done by Rogers/Pacific, except for the recommendation regarding relocation of the driveway. Special Condition No. 2 also requires development to proceed consistent with the certified plans.

In addition, although the applicant understands that the site has the potential for future geologic hazard, no one can predict when or if there might be bluff failure that might affect the house or driveway since such failure appears to be episodic in nature. The Commission thus attaches Special Condition No. 1, which requires recordation of a deed restriction whereby the landowner assumes the risks of extraordinary erosion and geologic hazards of the property and waives any claim of liability on the part of the Commission or its officers, agents, and

employees for any damage due to these natural hazards; in addition, the landowner accepts sole responsibility for the removal of any structural debris resulting from landslides, slope failures, or erosion on the site.

The special condition also requires that the landowners agree through recordation of the deed restriction that no bluff or shoreline protective devices shall be constructed on the subject site. This requirement is consistent with Section 20.500.010 of the Mendocino County Coastal Zoning Ordinance, which states that new development shall not in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The Commission finds that the proposed development could not be approved as being consistent with Zoning Code Section 20.500.010 if projected bluff retreat would affect the proposed development and necessitate construction of a seawall to protect it.

As discussed previously, the geotechnical information prepared in the Rogers/Pacific report indicates that bluff retreat will not adversely affect the proposed house during the economic lifespan of the house, and thus no seawall will be necessary. However, given the varying geotechnical recommendations regarding setback that have been provided for the subject site, the Commission finds the imposition of Special Condition No. 1 especially appropriate. In addition, the Commission notes that the applicant specifically claims that a seawall will not be necessary and has agreed to the imposition of a condition precluding construction of a future protective device.

The Commission finds that Special Condition No. 1 is required to ensure that the proposed development is consistent with the LCP and that recordation of the deed restriction will provide notice of potential hazards of the property and help eliminate false expectations on the part of potential buyers of the property, lending institutions, and insurance agencies that the property is safe for an indefinite period of time and for further development indefinitely into the future, or that a seawall could be constructed to protect the development. Only as conditioned is the proposed development consistent with the geologic setback policies of the certified LCP.

d. Sea Caves.

Regarding the issue of sea caves raised by the appellant and Dr. Kojan, Rogers/Pacific does not recommend any additional protective measures to mitigate against potential sea cave collapse. Upon direction by the Commission, staff sought additional information on sea caves, which was submitted by Dr. Rogers of Geolith Consultants (formerly with Rogers/Pacific) and is included as Exhibit No. 25. In this most recent submittal on sea caves (a two-page addendum to the original report), Dr. Rogers indicates that the term "sea caves" is a colloquial expression used by area residents to describe localized wave-induced undercut erosion along regional systematic joint clusters in the exposed cliffs. He indicates that the subject site contains three such "sea caves," or localized zones in which waves have undercut along joint clusters. Two of these

were observed and the third was actually explored using ropes on October 17, 1998. The northernmost "caves" were selected for study because they appeared to be the most pervasive, extending farthest into the cliffs, and are situated closest to the proposed house site on the Riley parcel.

Dr. Rogers states that the most revealing aspect of the exploration was the observation of cross-cutting joints. The cross cutting nature of the "master" joints creates a physical situation that promotes the formation of rock "wedges" which prevent further collapse of the opening, until such time as the surrounding country rock disintegrates. Thus, the nature of the formation is such that the "sea caves" do not pose a threat to the surrounding property or to the proposed development, consistent with Zoning Code Section 20.500.010, which states that new development shall assure structural integrity and stability and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding areas.

Dr. Rogers thus concludes that although the largest of the so-called "sea caves" extends as much as 30 feet beneath the exposed cliff face, these openings are only a few feet wide. Wave action is concentrated within such openings, causing wave-induced abrasion and exerting considerable suction, which can easily remove loose particles of rock. However, the roofs of these openings do not exhibit evidence of imminent collapse, but will likely retreat with the exposed cliff face, over a period of hundreds of years. Dr. Rogers further concludes that "the physical position of the caves, between 35 and 75 feet below the grade of the exposed terrace (building site), is such that [it] is extremely doubtful these features pose any real threat to a structure designed for a 75-year lifespan."

The appellant has previously asserted in letters to the Commission on the proposed project that the geologist she hired to evaluate the site, Dr. Kojan, has indicated to her that more thorough examinations of the sea caves should be conducted before any development is approved at the site. Specific suggestions have included conducting closely parallel refraction seismic geophysical survey traverses, followed by a series of closely spaced borings with continuous rock cores sampled and logged. (Verran letter of Feb. 28, 1998, Exhibit 12, and July 18, 1998, Exhibit 27.)

Dr. Rogers, however, does not believe such seismic geophysical surveys would be reliable or appropriate in this case. As stated in his November 28, 1997 geotechnical report (see Exhibit No. 10):

We do not agree with Dr. Kojan's remarks about exploring the sea caves with geophysical techniques. Seismic techniques (refraction or reflection) methods cannot provide reliable indications of voids, such as caves or caverns, only of higher velocity

inclusions or units. Voids have zero shear wave velocity. Another complicating factor would be the sea water occupying the floor of such caves, which would reflect..."

In his report of July 13, 1998 on the sea caves issue (see Exhibit 25), Dr. Rogers concludes that "the exploration of such features is best accomplished through direct entry and observation."

The appellant had also asserted that the evaluations of sea caves conducted by Dr. Rogers were inadequate because each of the various sea caves was not explored, particularly those north of the "third promontory." In his July 13, 1998 report (Exhibit 25), Dr. Rogers explains that the caves that were inspected were selected for study because they appeared to be the "most pervasive, extending furthest into the cliffs, and are situated closest to the proposed house site on the Riley parcel."

The Commission finds that the certified LCP does not establish specific standards for geotechnical evaluations of sea caves. LCP Policy 3.4-7 states that the bluff "retreat rate shall be determined from historical observation (e.g., aerial photographs) and/or from a complete geotechnical evaluation." The LCP does not prescribe what a complete geotechnical evaluation should contain. Different geotechnical specialists may vary in their opinions as to precisely how much investigation work is required to assess geologic conditions and whether a proposed development would be safe from geologic hazards. Such differences of opinion between the applicants' original geologist and the geologist hired by the appellant lead the Commission to request that a third geologist chosen mutually by the applicants' and the appellant's geologists be hired to perform an independent geotechnical evaluation of the site. The geotechnical expert chosen to perform the evaluation was Dr. Rogers, who has been certified by the State of California as an Engineering Geologist and Hydrogeologist. Dr. Rogers has performed the most complete investigation of the site conducted to date, and his evaluation is the most recent that has been performed to date. As part of his analysis, Dr. Rogers extensively investigated historical photographs of the site. Given that a complete geotechnical evaluation was prepared which also included an analysis of historical photographs, the Commission finds that the requirements for geotechnical review specified in LCP Policy 3.4-7 have been satisfied.

The Commission further finds that there are no special conditions other than those discussed above which are required to find the proposed project consistent with the certified LCP.

e. Effects on Stability of Adjoining Property.

In her appeal of the project, the appellant had also raised several concerns regarding potential geologic hazards on the subject site and on adjacent property, including her own, including landsliding, bluff retreat, seismic hazards, drainage, and sea caves. 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; because of its location, runoff from the driveway does not come near the landslide.

In a May 15, 1997 letter, BACE Geotechnical asserts that continued landslide movements would be completely contained by the railroad roadbed, which is flanked by a deep trench at this location. The trench consists essentially of the depression between the top of the raised railroad bed and the hillside. When the railroad bed was constructed, the bed was cut into the hillside and partially raised and the depression created as a means of separating the railroad bed from the adjoining hillside to allow runoff to drain away from the tracks rather than over the tracks which could cause erosion of the railroad bed. Thus, according to the applicants' geologist, "the driveway and proposed residence will have no effect upon the landslide and the landslide will have no effect upon the proposed property improvements."

Rogers/Pacific concurs with the BACE Geotechnical report in concluding that the localized slippage and sloughing of the old railroad cut slope which occurred during the winter of 1996-1997 would not impact any of the proposed improvements on the subject parcel. The Rogers/Pacific report further recommends that the old railroad and piping right-of-way, cut into the natural bluffs behind the proposed residence, should be avoided as a development site, as it will continue to experience shallow, localized slope failures, as occurred this past winter, which will eventually ravel upslope. Rogers/Pacific states that situating the back of the proposed residence against the west-facing slope of the west embankment should serve to isolate the house from both upslope drainage and landslide hazards, provided the structure is designed and built as a fully-drained retaining wall or series of walls.

In her appeal and in subsequent letters submitted to the Commission, the appellant had raised a concern that the proposed development would adversely affect the structural stability of her adjacent parcel. In her letter of July 18, 1998 (see Exhibit No. 27), she states that the proposed Riley house threatens to undermine the bluff occupied by a row of houses up on the hillside. The Riley house will not be located on the hillside; it will, in fact, be located primarily on the coastal terrace and will buttress the railroad grade. In addition, in a letter dated March 5, 1998 (see Exhibit No. 18), BACE Geotechnic indicates that "since the proposed Riley residence will not be in contact with the nearby steep hillside and will not be adding water to the hillside, no conceivable impact to the hillside slope stability will result from the Riley residence construction." Furthermore, the Commission has determined that the driveway should not be constructed where it would require cutting into the railroad embankment as recommended by Rogers/Pacific. Instead, the Commission finds that the driveway should be constructed where proposed by the applicants and recommended by BACE Geotechnical, approximately 15 feet from the edge of the bluff where no retaining wall will be necessary to support it. As the

driveway will not be cut into the railroad embankment or the hillside behind, construction of the driveway will also not adversely affect hillside slope stability.

Concerns were also raised at the March 11, 1998 hearing that runoff from the driveway has eroded a cusp in the soil that rests on top of the bedrock of the bluff and that additional runoff generated by the proposed project might cause further erosion, damaging the bluff on the property to the south. Rogers/Pacific notes in the report dated November 28, 1998 that the cusp in the terrace on the subject parcel has demonstrated "modest levels of erosion...over the past 25 years, likely due to unnatural concentration of surface flow, emanating from the steep access road." Rogers/Pacific points out that "proper design and construction of the paved driveway could alleviate much of this erosion," and recommends that the driveway pavement be cross-sloped 5% towards the uphill side, and runoff then collected, conveyed, and discharged away from the driveway. In this way, the accelerated erosion of the cusp should cease. Thus, construction of the proposed driveway, if done properly, will actually reduce erosion on the site and on the adjoining property to the south.

Therefore, the Commission finds that the proposed project, as conditioned, will neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding areas, consistent with Zoning Code Section 20.500.010. The Commission further finds that no other special conditions are necessary to find the proposed project consistent with the above-referenced policies of the certified LCP.

f. Fault Hazards.

Regarding the issue of seismic hazards raised by the appellant and Dr. Kojan, Rogers/Pacific states that they are not concerned about the potential for surface fault rupture in the very small fault feature exposed in the sandstone cliff on the site, nor are they concerned about the projected fault shown on the 1963 Santa Rosa sheet, which was removed from the newer Santa Rosa sheet released in 1982. No additional measures to protect against fault hazards were recommended.

g. Clean-up of Debris.

As discussed previously, both the BACE Geotechnical and Rogers/Pacific reports conclude that the proposed development can be constructed in a manner that will not subject the home to collapse from bluff retreat over the life of the project or otherwise create a geologic hazard. However, the geotechnical evaluations do not guarantee that bluff retreat will not affect the house. Some risks of an unforeseen natural disaster, such as an unexpected landslide, massive slope failure, erosion, etc. could result in destruction or partial destruction of the house or other development approved by the Commission. When such an event takes place, public funds are

often sought for the clean up of structural debris that winds up on the beach or on an adjacent property. As a precaution, in case such an unexpected event occurs on the subject property, the Commission attaches Special Condition No. 1 (d), which requires recordation of a deed restriction whereby the landowner assumes the risks of extraordinary erosion and geologic hazards of the property and accepts sole responsibility for the removal of any structural debris resulting from landslides, slope failures, or erosion on the site.

h. Conclusion.

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), as the house and driveway will be set back a safe distance from the bluff edge, the site drainage will reduce erosion of the bluff, and the proposed development, as conditioned, will not result in the creation of any geologic hazards.

3. 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 2,814 square feet, and is two stories (with a subterranean garage) 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, would 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 a number of 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 one of the only houses 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 assessed the impacts of the proposed residence on the park, and recommends that an evergreen screen of native trees be planted along the south side of the residence to mitigate the visual impacts of the project on the park, and that the house be constructed with cedar siding with natural stain, dark fiberglass shingle roofing, and native field stone (see Exhibit No. 11). Although some trees grow along the hillside portion of the lot, these trees are located too far to the east 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. 3, 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. 3 ensures that the project is consistent with LUP Policy 3.5-5.

The Commission also attaches Special Condition No. 4, 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. 5, 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 or those required to be removed for the relocation of the driveway,

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.

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 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 3.6-27 states 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.

This language is reiterated in Zoning Code Section 20.528.030.

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. Moreover, 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 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 1.2 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 in 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. With regard to archaeological resources, 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.6, which requires that if any archaeological or paleontological 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 any archaeological materials discovered, and, if deemed necessary, develop appropriate mitigation measures to protect the archaeological resources using standards of the State Historic Preservation Office.

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)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect 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. Required mitigation measures will minimize all adverse environmental impacts, including requirements that (1) the applicant shall record a deed restriction regarding assumption of risk and waiver of liability, and stating that no bluff or shoreline protective devices shall be constructed, and stating that the applicant accepts sole responsibility for the removal of any structural debris resulting from landslides, slope failures, or erosion on the site; (2) the applicant shall submit final foundation and site drainage plans for the proposed project that are consistent with the recommendations made in the geotechnical reports; (3) 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; (4) design restrictions be imposed to minimize visual impacts of the project; (5) 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 fire safety regulations or those required to be removed for the relocation of the driveway; and (6) 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.

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, 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.

