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49 th Day:	Opened and Continued
Staff:	Eric Oppenheimer
Staff Report:	March 1, 2000
Hearing Date:	March 15, 2000
Commission Action:	

STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE

LOCAL GOVERNMENT:	County of Mendocino
DECISION:	Approval with Conditions
APPEAL NO.:	A-1-MEN-00-02
APPLICANT:	SALLY OTTOSON
PROJECT LOCATION:	Just north of Kibesillah Creek, 9 miles north of Fort Bragg on the west side of Highway One at mile post marker 75.58, Mendocino County, APN 15-370-11.
PROJECT DESCRIPTION:	Expansion of an existing winery operation to include an expanded storage area, office, and wine tasting facility. The expansion would be accommodated within (1) a new 28-foot-tall, two-story barn with a 2,640-square-foot footprint, and (2) a 2,271-square-foot addition to an existing building.
APPELLANT:	Mary Walsh and Mendocino & Lake Group Sierra Club
SUBSTANTIVE FILE DOCUMENTS:	Mendocino County CDU File No. 16-99; Mendocino County Local Coastal Program.

SUMMARY OF STAFF RECOMMENDATION:

1. SUMMARY OF STAFF RECOMMENDATION: SUBSTANTIAL ISSUE

The staff recommends that the Commission, after public hearing, determine that a substantial issue exists with respect to the grounds on which the appeal has been filed, and that the Commission hold a de novo hearing, because the appellants have raised a substantial issue with the local government's action and its consistency with the certified LCP.

Mendocino County approved a coastal development use permit allowing for the expansion of an existing winery operation to include a new wine tasting facility and increased office and storage space. The expansion would be accommodated within a new 28-foot-tall, two-story barn with a 2,640-square-foot footprint, and a 2,271-square-foot addition to an existing building. The appellants contend that the approved project raises a substantial issue of conformance with the County's LCP policies pertaining to visual resources, zoning and expansion of non-conforming uses, and public access.

Commission staff recommends that the Commission find that the development, as approved by the County, raises a substantial issue of whether the proposed winery expansion, located within a designated highly scenic area, would be inconsistent with the policies of the certified LCP regarding visual resources and building heights. The approved project includes the construction of a 28-foot-tall building on a largely undeveloped wide-open coastal terrace in a highly scenic area. In designated highly scenic areas, LCP policies limit buildings to one story and 18 feet, unless an increase in height would not affect public views to the ocean. The project, as approved, would further obstruct a portion of the blue water views to the ocean from public vantage points along Highway One.

Commission staff also recommends that the Commission find that the project as approved raises a substantial issue of conformance with the policies of the certified LCP regarding zonings and the expansion of non-conforming uses. The approved project involves the expansion of an existing non-conforming winery, however, wineries are not a principally permitted use or a permitted conditional use within agricultural zoning districts. Mendocino County LCP policies pertaining to the expansion of non-conforming uses only allow for the expansion of a non-conforming use to a use of lesser intensity when specified findings can be made and when it can be found that the expansion is consistent with all other applicable LUP policies. However, the approved project would actually be an intensification of use and would not be consistent with all other applicable LUP policies, specifically visual protection policies.

Finally, Commission staff recommends that that Commission find that the project as approved raises a substantial issue of conformance with the certified LCP and Coastal Act policies regarding public access. The Mendocino County LCP requires that where new development is sited along the County designated coastal trail, a 15-foot accessway along Highway One shall be offered for dedication as a condition of permit approval if

the topography is deemed suitable for pathway development. However, the County did not address in it's findings how the project as approved would be consistent with this policy nor did they address how the project as approved affects public access in general.

With regard to the last contention raised by the appeal concerning sign restrictions, staff recommends that the Commission find that this contention raises no substantial issue of conformance of the project as approved with the visual resource policies of the certified LCP.

The motion to adopt the Staff Recommendation of Substantial Issue is found on page 5.

2. SUMMARY OF STAFF RECOMMENDATION DE NOVO: DENIAL

The major issues raised by the project involve impacts to visual resources and the expansion of an existing non-conforming use. Staff recommends DENIAL of the project because the project is inconsistent with Mendocino LUP Policy 3.5-3 and Zoning Code Section 20.356.040, which pertain to visual resources and the maximum allowable height of new development within designated highly scenic areas. The proposed new barn structure would be more than one story and 28 feet in height and, as proposed, would block a portion of the expansive blue water view from the highway. In cases where a structure would affect public views of the ocean, the LUP policy and zoning code section only allow structures to be one story and 18 feet in height. Additionally, the proposed barn would not be subordinate to the character of its setting and the applicant has not demonstrated that other less visually obtrusive alternatives to the proposed project do not exist.

The project is also not consistent with Mendocino Zoning Code Sections 20.356.010 and 20.356.015, which effectively do not permit wineries as either a principally permitted use or a conditional use in agricultural zoning districts within the Mendocino County Coastal Zone. Furthermore, Mendocino County Zoning Code Section 20.480.025 states that a non-conforming use can only be expanded to a use of lesser intensity if the expansion is found consistent with all other applicable policies of the Coastal Element of the Mendocino County General Plan (emphasis added). However, as discussed above the approved project is not consistent with all of the applicable policies of the Coastal Element. Additionally, the project is actually an intensification of use, as the applicant is seeking to expand the winery operation to increase production to 5,000 cases per year, and add a public tasting room. Moreover, Mendocino LUP Policy 3.2-4 indicates that compatible activities that enhance the economic viability of an agricultural operation may be granted a use permit only if certain criteria are met including a criterium that the proposed development would maintain views from public roads and other public viewing areas. As noted above, the proposed development would adversely affect views from Highway One. Therefore, the proposed development is inconsistent with, Mendocino LUP Policy 3.2-4.

The motion to adopt the Staff Recommendation of Denial is found on page 23.

STAFF NOTES:

1. Appeal Process.

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

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

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

The subject development is appealable to the Commission because: (1) it is located between the sea and the first public road paralleling the sea; (2) it is within 300 feet of the mean high tide line and top of the seaward face of a coastal bluff; (3) it is not a principally permitted use; and (4) it is located in a sensitive coastal resource area.

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

The only persons qualified to testify before the Commission on the substantial issue question are the applicant, the appellant and persons who made their views known before

the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing.

2. Filing of Appeal.

The appellant filed the appeal (Exhibit 6) to the Commission in a timely manner on January 12, 2000, within 10 working days of receipt by the Commission on January 3, 2000 of the County's Notice of Final Action.

3. Hearing Opened and Continued.

Pursuant to Section 30621 of the Coastal Act, an appeal hearing must be set within 49 days from the date an appeal of a locally issued coastal development permit is filed. In accordance with the California Code of Regulations, on January 19, 2000, staff requested all relevant documents and materials regarding the subject permit from the County, to enable staff to analyze the appeal and prepare a recommendation as to whether a substantial issue exists. However, the County permit file information had not yet been received as of the day of the mailing of staff reports to the Commission and interested parties on January 28, 2000. Thus, the requested information was not received in time for the staff to review the information for completeness or prepare a recommendation on the substantial issue question for the Commission's February meeting agenda. Consistent with Section 13112 of the California Code of Regulations, since the Commission did not timely receive the requested documents and materials, the Commission opened and continued the hearing on February 16, 2000.

I. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

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

MOTION

I move that the Commission determine that Appeal No. A-1-MEN-00-02 raises No Substantial Issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.

STAFF RECOMMENDATION:

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-1-MEN-00-02 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

II. Findings and Declarations.

The Commission hereby finds and declares:

A. APPELLANTS' CONTENTIONS.

The Commission received collectively from Mary Walsh and the Mendocino & Lake Group Sierra Club, the appellants, an appeal of the County of Mendocino's decision to approve the development. The project as approved by the County consists of the expansion of an existing winery operation to include a new wine tasting facility and expand storage and office space. The project involves the construction of a 28-foot-tall, two-story barn building with a 2,640-square-foot footprint, and a 2,271-square-foot addition to an existing building. The appellants' contentions are summarized below, and the full text of the contentions is included as Exhibit No. 6.

The appellants contentions involve inconsistency with the County's LCP policies regarding visual resources, zoning and the expansion of non-conforming uses, and public access as described below.

1. Visual Resources

The appellants contend that the project as approved by the County is inconsistent with a number of LCP policies regarding visual resources and development within highly scenic areas. The appellants cite policies that indicate that the project is located within a designated highly scenic area that must be protected to the extent that new development shall be subordinate to the character of its setting and shall provide for the protection of ocean and coastal views. The appellants contend that the approved project, including the new 28-foot-tall barn building and 32-square-foot sign, is inconsistent with the policies of the certified LCP regarding the

protection of visual resources in highly scenic areas. The appellants' contentions regarding visual resources focus on the height of the approved building and on the prominence of the approved sign, as discussed below.

a. Visual Resources and building height limits:

The appellants cite policies that state that the height of new structures within highly scenic areas west of Highway One is limited to one-story (above natural grade) unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. The appellants contend that the approved 28-foot-tall building will obstruct public views to the ocean and is inconsistent with LCP policies pertaining to building height limits in designated highly scenic areas.

b. Visual Resources and sign restrictions:

The appellants refer to LCP policies which state that off-site advertising signs exceeding 2 square feet shall not be allowed within designated highly scenic areas and that direction, access, and business signs shall minimize disruption of scenic qualities through appropriate use of materials, scale and location. The appellants assert that the approved 32-square foot-sign should be considered an off-site sign because it is located 650 feet away from the building and consequently it is inconsistent with LCP policies regarding off-site signs in designated highly scenic areas, which limits the size of off-site signs to 2 square feet.

2. **Zoning and Expansion of Non-Conforming Use**

The appellants contend that the project as approved is inconsistent with LCP policies pertaining to agricultural zoning, which specify the principally permitted uses and conditional uses allowed within agricultural zoning districts. The appellants cite LCP policies pertaining to the expansion of non-conforming uses, which states that the expansion of non-conforming uses is limited to uses of lesser intensity if specified findings can be made and must be consistent with all other applicable policies of the LCP. The appellants assert that the approved project is inconsistent with visual resource protection policies of the LCP, and therefore the approved development is also inconsistent with LCP policies regarding expansion of non-conforming uses.

3. **Public Access**

The appellants cite LCP policies that require the dedication of a 15-foot-wide public accessway adjacent to Highway One as a condition of permit approval for new developments located in areas designated for a coastal trail system. The appellants assert that the approved project is located in an area designated for the establishment of such a coastal trail and that the County's approval does not

provide the public access required to establish a coastal trail along Highway One through the subject site.

B. LOCAL GOVERNMENT ACTION.

On October 21, 1999, the Mendocino County Planning Commission voted 4-1 to deny Coastal Development Use Permit #16-99 (CDU #16-99) for the subject development. On October 28, 1999 the applicant appealed the decision of the Mendocino County Planning Commission and the appeal was considered by the County Board of Supervisors during a public hearing on December 13, 1999. The Board of Supervisors unanimously overturned the Planning Commission's previous decision to deny the coastal development permit and ultimately approved the development with conditions. The County then issued a Notice of Final Action, which was received by Commission staff on January 3, 2000 (Exhibit 7).

The County attached to its coastal permit a number of special conditions, including requirements that 1) prior to use or occupancy of the development and for the duration of the permit the development shall comply with the construction and setback standards recommended in the geotechnical report dated April 22, 1999; (2) the opening of the tasting room shall be based on the vineyards expansion to 5 acres within 5 years (not required prior to opening the tasting room); (3) the applicant shall maintain a 50-foot-buffer from the edge of the riparian vegetation along Kibesillah Creek; (4) all exterior lights shall be shielded and downcast; and (5) only one sign, constructed of wood, and a maximum of 32 square feet, may be permitted on site.

C. PROJECT AND SITE DESCRIPTION.

The approved development is situated on a 15-acre blufftop parcel located approximately 9 miles north of Fort Bragg, just north of Kibesillah Creek on the west side of Highway One. The subject property is comprised of two marine terraces. The upper terrace slopes gently to the southwest from an elevation of approximately 120 feet at Highway One to an elevation of 75 feet at the break in slope to the lower terrace. There is approximately 10 to 20 feet of vertical separation between the upper and lower terraces. The lower terrace ranges in height from 40 to 60 feet and is located on a headland that occupies the western one-third of the parcel. The western edge of the property consists of steep ocean bluffs with incised inlets and sea caves. The southern parcel boundary is formed by Kibesillah Creek and its associated riparian corridor. Highway One runs parallel to the eastern property boundary and Caltrans owns a 150-foot-wide right of way between Highway One and the subject property.

In 1988, the Commission approved the existing 30.5-foot-tall wine making building with attached living quarters, a well, a septic system, a driveway, a 5000-gallon water tank, and a test plot vineyard on the subject site. Approximately 2.5 acres of existing vineyards have been established on the upper terrace and the approved existing

residence/winery facility and water tower has been constructed on the lower terrace. A gravel driveway has also been constructed for site access.

The new development approved by the County consists of the expansion of the existing non-conforming winery operation to include a new wine tasting facility and expanded storage and office space. The approved site improvements include (1) a 28-foot-tall, two-story barn with a 2,640-square-foot footprint; (2) a 2,271-square-foot addition to an existing building; and (3) a thirty-two-square-foot sign. The 2,271-square-foot building addition would extend from the seaward side of the existing building and the new barn would be located on the lower terrace in the vicinity of the existing building. All the approved development would maintain a 65-foot setback from the bluff edge as recommended in the applicant's geotechnical report prepared for the project.

The subject parcel is zoned agricultural and the agricultural zoning designation within the coastal zone does not allow for winery operations or wine tasting rooms. The surrounding area is largely undeveloped and the site is located within a designated highly scenic area. Aside from the vineyard, the property is primarily vegetated with grass. When traveling along Highway One, the subject property and surrounding area is viewed as a wide-open coastal terrace with an expansive blue water backdrop. The existing residence/winery building, which blocks a portion of the blue water view from public vantage points along Highway One, is the only building visible from Highway One along this scenic stretch of coastline. However, the existing building is located approximately 800 feet from Highway One and the lower portion of the building is shielded from view by the vertical separation between the upper and lower terrace. As a result, the visual prominence of the building has been minimized.

D. SUBSTANTIAL ISSUE ANALYSIS.

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

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

Appellants' Contentions That Raise a Substantial Issue.

All of the appellants' contentions raised in the appeals present potentially valid grounds for appeal in that they allege the project's inconsistency with policies of the certified LCP. These contentions allege that the approval of the project by the County raises significant issues related to LCP provisions regarding (1) the protection of visual resources; (2) agricultural zoning and the expansion of non-conforming uses; (3) public access; and (4) sign restrictions. The Commission finds that the first three of these contentions raise a substantial issue, for the reasons discussed below.

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

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

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question." (Cal. Code Regs., tit. 14, section 13115(b).) In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that with respect to certain allegations (a, b, and c below) a substantial issue exists with regard to the projects conformance with the certified Mendocino County LCP. As further discussed below, the Commission finds that with respect to the allegation regarding sign restrictions, the development as approved by the County raises no substantial issue.

Allegations Raising Substantial Issue

a. Visual Resources and Building Height Limitations

The appellants contend that the approved project raises a substantial issue of conformance with Mendocino County LUP policies 3.5-1, and 3.5-3 regarding new

development and the protection of visual resources. Specifically, the appellants assert that the approved project is located within a designated highly scenic area and the approved 28-foot-tall building will obstruct public views to the ocean.

LCP Policies:

LUP Policy 3.5-1 states in applicable part:

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

LUP Policy 3.5-3 states in applicable part:

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

The entire coastal zone from the Ten Mile River estuary (including its wooded slopes, wetlands, dunes and ocean vistas visible from Highway 1) north to the Hardy Creek Bridge, except Westport Beach Subdivision which is a recognized subdivision containing parcels of approximately 20 acres in size covered by Policy 4.2-1 and is East of Highway 1.

In addition to other visual policy requirements, new development west of Highway One in designated 'highly scenic areas' is limited to one-story (above natural grade) unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. ...New development should be subordinate to the natural setting and minimize reflective surfaces. ...

Zoning Code Section 20.356.040 **Building Height Limit for AG Districts**, in relevant part limits building heights to:

Twenty-eight (28) feet above natural grade for non-Highly Scenic Areas and for Highly Scenic Areas east of Highway One. Eighteen feet above natural grade for Highly Scenic Areas west of Highway One unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. ...

Discussion: The development is located within a designated highly scenic area west of Highway One. The portion of the coast on which the subject site is located is between Dehaven and Newport, and is largely wide-open, affording sweeping blue water views to motorists traveling on Highway One. The site is also visible from a Caltrans scenic vista point located to the north of the property. This stretch of coast is extremely scenic and has a very different character than the more developed portions of the Mendocino Coast.

An existing 30-foot-tall, 2,600-square-foot barn building, a gravel driveway, and three 5,000-gallon water tanks were constructed pursuant to Coastal Development Permit No. 1-88-19 that was issued by the Commission in 1988. Additionally, approximately 2 ½ acres of vineyard have been established on the site. As mentioned above, the site consists of two marine terraces. The upper terrace slopes gently to the southwest from an elevation of approximately 120 feet at Highway One to an elevation of 75 feet at the break in slope to the lower terrace. There is approximately 10 to 20 feet of vertical separation between the upper and lower terraces. The lower terrace ranges in height from 40 to 60 feet above the ocean. Aside from the vineyard the site is primarily vegetated with grasses, which provides very little screening of the development from public viewpoints. The existing development is situated on the lower terrace approximately 800 feet away from Highway One. The break in slope between the upper and lower terrace shields the bottom portion of the existing structure from public view. Additionally, the existing barn is oriented on perpendicular axis to Highway One, which further lessens its appearance from public viewpoints along the highway. However, the existing barn does protrude into the public viewshed and slightly blocks a small portion of an otherwise expansive blue water view.

The approved development that is subject to this appeal includes the construction of a 28-foot-tall, two-story barn with a 2,640-square-foot footprint, and a 2,271-square-foot addition to an existing building. The approved 2,271-square-foot addition to the existing barn building has been designed to extend from the seaward side of the existing barn, so the existing building will completely shield the new addition from public viewpoints landward of the development. However, both the new and existing structures would be noticeably visible from sea. Similarly to the existing barn, the approved new 2,640-square-foot barn has been sited on the lower terrace, in a perpendicular orientation to Highway One, to lessen its appearance from the highway. The approved barn has also been designed to match the existing barn, and therefore, it would be within the character of the existing structures as required by LUP Policy 3.5-3. However, LUP Policy 3.5-3 also requires that new development within highly scenic areas be subordinate to its natural setting. The approved new barn is located on a wide-open coastal terrace and although the barn would be within the agricultural character of its surroundings, a substantial issue is raised as to whether the approved barn would be subordinate to its largely undisturbed and wide-open natural setting.

LUP Policy 3.5-3 also limits new development in highly scenic areas west of Highway One to one-story above natural grade unless an increase in height will not affect public

views to the ocean. Similarly, Zoning Code Section 20.356.040 also limits building heights to eighteen feet above natural grade for new development in highly scenic areas west of Highway One unless an increase in height would not affect public views to the ocean. The upper portion of the approved 28-foot-tall barn building will block a portion of blue water views to the ocean. Therefore, the Commission finds that the increase in height from one-story to two-stories above natural grade raises a substantial issue of conformance with LUP Policy 3.5-3. Further, the outcome of the review of this coastal development use permit application will have precedential significance for the County's review of other future developments on other parcels located in designated highly scenic areas, and will have precedential significance regarding how the County interprets and implements LUP Policy 3.5-3 and Zoning Code Section 20.356.040 in highly scenic areas throughout the Mendocino County Coastal Zone. Although the County has sometimes approved buildings taller than one story in highly scenic areas of the coastal zone, the projects have tended to be in situations where the proposed building would be set against a backdrop of hills, trees, or other buildings such that the increased height would not reduce any existing public view of the ocean itself. The County has generally not approved buildings taller than one story in highly scenic areas where the increase in height would affect blue-water views from public vantage points.

Additionally, there is no evidence in the local record that indicates that any other project alternatives, including an alternative barn building design with a lower profile that conforms to the 18-foot height limitation, were evaluated during the County's review and approval of the project. Therefore, there is not a high degree of factual or legal support for the County's decision to approve the project as being consistent with the certified LCP.

Thus the Commission finds that the project as approved by the County raises a substantial issue with respect to conformance of the approved project with the LCP policies regarding visual resources and building height limitations.

b. Zoning and Expansion of Non-Conforming Use

The appellants contend that the approved project raises a substantial issue of conformance with Mendocino County Zoning Code Section 20.480.025 which requires that the expansion of a non-conforming use be limited to uses of lesser intensity if specified findings can be made and be consistent with all other applicable policies of the LCP. The appellants assert that because the development is inconsistent with LCP policies regarding visual resources, it also inconsistent with Zoning Code Section 20.480.025. The appellants further contend that wineries are not permitted in the Mendocino County Coastal Zone, even via a use permit. The appellants also allege that the existing agricultural operation has been proven to be non-viable, thus, there is no basis to allow an expansion of the agricultural operation.

LCP Policies:

LUP Policy 3.2-4 states that:

Zoning regulations shall not discourage compatible activities that enhance the economic viability of an agricultural operation. These may include cottage industry, sale of farm products, timber harvesting, not subject to the Forest Practices Act and limited visitor accommodations at locations specified in the plan. Visitor accommodations shall be secondary to the agricultural activity. Proposed projects shall be subject to a conditional use permit. Granting of the permit shall require affirmation findings to be made on each of the following standards. The project shall:

- *maximize protection of environmentally, sensitive habitats;*
- *minimize construction of new roads and other facilities;*
- *maintain views from beaches, public trails, roads and views from public viewing areas, or other recreational areas;*
- *ensure adequacy of water, sewer and other services;*
- *ensure preservation of the rural character of the site; and*
- *maximize preservation of prime agricultural soils;*
- *ensure existing compatibility by maintaining productivity of on site and adjacent agricultural lands.*

The AG Land Use classification as set forth on page 23 of the LUP that principally permitted uses under this classification include the following:

Agricultural uses; including one single family dwelling unit and associated utilities; the processing and sale of agricultural products and home occupations.

Zoning Code Section 20.336.035 **Packing and Processing**, in relevant part states that:

Packing or processing of agricultural crops, animals and their byproducts which entails more than picking, cutting, sorting and boxing or crating, but does not include rendering, tanning, or reduction of meat. The following are packing and processing use types:

- (A) **Packing and Processing: Limited.** *Packing or processing of crops grown on the premises. Includes mineral water bottling plants.*
- (B) **Packing and Processing: Winery.** *Crushing of grapes and fermentation, storage, and bottling of wine from grapes grown on or off the premises. Said use type also includes tasting room in conjunction with a winery and breweries provided said tasting room occupies less than twenty-five (25) percent of the floor space of the winery/brewery and sales are limited to products produced on site.*

Zoning Code Section 20.356.010 **Principal Permitted Use for AG Districts**, states that:

The following use types are permitted in the Agricultural District:

(A) Coastal Residential Use Types.

*Family Residential; Single-family;
Vacation Home Rental.*

B) Coastal Agricultural Use Types.

*Horticulture;
Light Agriculture;
General Agriculture;
Row and Field Crops;
Tree Crops.*

Zoning Code Section 20.356.015 **Conditional Uses for AG Districts**, states that:

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

(D) Coastal Agricultural Use Types.

*Animal Waste Processing;
Aquaculture;
Packing and Processing: Limited.*

Zoning Code Section 20.480.005 states that:

To allow for the continued utilization of lawfully existing improvements and uses made nonconforming by the adoption of the Coastal Element of the Mendocino County General Plan and this Division, where the use is compatible with adjacent land uses and where it is not feasible to replace the activity with a conforming land use.

(A) *A nonconforming use is a use of a structure or land which was lawfully established and maintained prior to the adoption of this Division but which does not conform with the use regulations for the zone in which it is located.*

(B) *A nonconforming structure is a structure which was lawfully erected prior to the effective date of the application of these regulations but which, under this Division, does not conform with the standards of yard spaces, height of structures, distance between structures, parking, etc., prescribed in the regulations for the zone in which the structure is located. (Ord. No. 3785 (part), adopted 1991)*

Zoning Code Section 20.480.010 states that:

(A) A legal nonconforming use or structure may be continued if it conforms to the following criteria:

- (1) If the existing use is contained within a structure built or modified to accommodate the existing use, conformance is required with the applicable building code and/or zoning code in effect at the time of construction or modification.*
- (2) The use must be compatible with adjacent land uses, such that its hours of operation, noise levels, aesthetic impacts, and traffic to the site do not now significantly adversely impact adjacent land uses.*

(B) Routing maintenance and repairs may be performed on a nonconforming structure or site. (Ord. No. 3785 (part), adopted 1991)

Zoning Code Section 20.480.025 **Expansion or Reduction of Nonconforming Uses**, states that:

(A) Existing legal nonconforming uses conforming with Section 20.480.010 may be expanded or reduced to a use of lesser intensity through the issuance of a Coastal Development Use Permit provided the following findings are made: (emphasis added)

- (1) That it is not reasonably economically or physically feasible to make the use of the property compatible with the applicable general plan designation; and*
- (2) That the use is, and, after expansion, will be compatible with adjacent land uses and that any increased adverse impacts on access or public facilities and services will be mitigated; and*
- (3) That the site is physically separate from surrounding properties such that continued nonconforming use is appropriate in that location; and*
- (4) The expansion is found consistent with all other applicable policies of the Coastal Element of the Mendocino County General Plan.*

(B) A legal nonconforming mobile home may be replaced by a new mobile home without a use permit if no use permit was required for the original installation. (Ord. No. 3785 (part), adopted 1991)

Discussion: The existing winery was originally approved by the Commission pursuant to Permit No. 1-88-19 in 1988. The Commission approved the existing winery as being

consistent with the agricultural land use designation specified under the certified LUP at the time of approval. The County's LUP designation for Agriculture (AG) has generally allowed the processing and sale of agricultural products as a principally permitted use in Agriculture (AG) districts. The original approval was granted after certification of the LUP, but prior to certification of the County's Coastal Zoning Ordinance and transfer of coastal development permit authority to the County. Under the certified zoning, the subject property is zoned as Agricultural (AG-60). However, pursuant to Zoning Code sections 20.356.010 and 20.356.015, which were enacted after the existing winery was established, wineries are neither a principally permitted use nor an allowable conditional use in agricultural zoning districts within the Mendocino County coastal zone. Instead only specifically defined packing and processing is allowed within agricultural zoning districts. Consequently, the existing winery is a legal non-conforming use.

The portion of the appellants' allegation that the vineyard is not a viable agricultural operation and thus there is no basis to support the expansion of the agricultural operation, is largely unfounded and is not a valid ground for appeal as there are no LCP policies that require agricultural operations to be viable or sustain a certain level of production. Furthermore, even if such policies existed, evidence in the record suggests that the vineyard is a potentially viable agricultural endeavor.

However, the appellants do raise a substantial issue with respect to Mendocino County Zoning Code Section 20.480.025, which establishes criteria that must be met in order to allow the expansion of a legal non-conforming use. Zoning Code Section 20.480.025 states that a non-conforming use can only be expanded when the expansion is found consistent with all other applicable policies of the Coastal Element of the Mendocino County General Plan. As mentioned above, the Commission finds that the approved development raises a substantial issue with LUP policies regarding visual resources and building height limitations. Therefore, The Commission finds that the approved project also raises a substantial issue with Zoning Code Section 20.480.025 because the project cannot be found to be consistent with all other applicable policies of the Coastal Element of the Mendocino County General Plan.

Finally, Zoning Code Section 20.480.025 states that a non-conforming use can only be expanded to a use of lesser intensity. However, the approved project is actually an intensification of use, as the applicant is seeking to expand winery operation to increase production to 5,000 cases per year, and add a public tasting room. In County's findings of approval for the project, the County did not consider whether or not the project is an expansion of use to a use of lesser intensity. Therefore, because the project involves an intensification of use there is not high degree of factual and legal support for the County's finding that the development is consistent with Zoning code Section 20.480.025 and their subsequent approval of the project.

Thus the Commission finds that the project as approved by the county raises a substantial issue with respect to conformance of the approved project with the LCP policies regarding Zoning and expansion of non-conforming uses.

c. **Public Access**

The appellants assert that the County's LCP includes a designation for the California Coastal Trail along side of Highway One wherever it is not otherwise located along the blufftop. They contend that public access was not addressed in the County's approval of the development and therefore the project is inconsistent with the policies of certified LCP that require dedication of public accessways along Highway One in areas designated for the coastal trail system.

The public access policies of the Coastal Act are part of the standard of review in this case because the site is located between the first public road and the sea.

Coastal Act Section 30210 states that:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Coastal Act Section 30210 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.

Coastal Act 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.

LCP Policies:

LUP policy 3.6-11 states that:

Visitor accommodations and services on parcels adjoining the shoreline as identified on the public access maps shall provide public access to the blufftop and/or the shoreline. The access, to be required as a condition of permit approval or other methods as described in policy 3.6-5, shall be available to the public at large as well as to guests. In the event that the use is changed to a use other than visitor accommodations or services, an irrevocable offer to dedicate an easement for public access shall be made available to a public entity for acceptance and management. If the accessway is reopened, it shall remain available to the public free of entrance charge.

LUP policy 3.6-18 states that:

Along sections of the highway where development intensity will result in pedestrian use, or where this is the siting of the County designated coastal trail, a 15-foot accessway measured from the right-of-way of Highway 1 shall be offered for dedication as a condition of permit approval if the topography is deemed suitable for pathway development. Coastal trail includes trails identified in Table 3.6-1 and portions of Highway 1 and Usal Road that are necessary to connect these trail segments.

Discussion: The Mendocino County LUP Policy 3.6-11 requires the dedication of easements for public accessways for new visitor serving facilities located along the shoreline. Additionally, LUP Policy 3.6-18 requires that along sections of the highway *where this is the siting of the County designated coastal trail, a 15-foot accessway measured from the right-of-way of Highway 1 shall be offered for dedication as a condition of permit approval.* The project site is located west of Highway One, but it is not designated as a potential public access trail location on the County's LUP maps. However, LUP table 3.6-1 and the LUP map (Exhibit 5) identify a vertical and lateral accessway about ½ mile to north of the subject parcel through a Caltrans scenic easement. Additionally, LUP Table 3.6-1 and the LUP map identify a proposed lateral accessway on parcels to the south of the subject site. LUP Policy 3.6-18 states that coastal trails include those portions of Highway One necessary to connect identified trail segments. Therefore, the portion of Highway One between these two accessways may be considered to be part of the coastal trail as it provides a necessary connection between these trail segments.

If the development is sited along the County designated coastal trail, LUP policy 3.6-18 provides that an offer to dedicate a 15-foot-wide lateral accessway adjacent to the right of way of Highway One shall be required as a condition of permit approval for the development if the topography is deemed suitable for pathway development.

The County findings and the staff report prepared for the Planning Commission and Board of Supervisors do not evaluate public access concerns with the project, other than to include a conclusionary finding that "the proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and the Coastal Element of the General Plan. Thus, there has been no analysis of whether the requirements of Policy 3.6-18 are applicable to the site and if so whether the topography of the site is suitable for pathway development. There has also been no analysis as to whether the proposed project would adversely affect existing public access use. Recent case law discourages public agencies from requiring public access as a condition of approval for new development unless the development actually has an impact on public access. In other words, public agencies must demonstrate that a proportional nexus exists between a project's impact on a given resource and the measures imposed by an agency to mitigate that impact through the use of exaction's of

property. In the absence of any analysis or discussion evaluating (1) the consistency of the project with Policy 3.6-18, and (2) whether a sufficient nexus exists between the project's impacts on public access and the need to require a lateral public accessway along the Highway One right-of-way, an issue exists as to whether the project as approved is consistent with LUP Policy 3.6-18.

The public access policies of the Coastal Act place great weight on protecting and providing public access along the coast. Thus the coastal resource affected by the decision of whether the development is consistent with LUP Policy 3.6-18 is of great significance. In addition, the County did not have a high degree of factual and legal support for its decision that the development is consistent with the public access policies of the certified LCP and the Coastal Act as discussed above. Therefore, the Commission concludes that the appeal raises a substantial issue with respect to conformance of the approved project with the certified LCP and Coastal Act public access policies.

Appellants' Contentions That Do Not Raise a Substantial Issue.

a. **Visual Resources and sign restrictions**

The appellants contend that the approved project raises a substantial issue of conformance with Mendocino County LUP policy 3.5-7 regarding signage and the protection of visual resources. The appellants assert that the approved 32-square foot sign should be considered an off-site sign, and as such is inconsistent with LUP policy 3.5-7, which limits off-site signs to maximum 2 square feet in designated highly scenic areas

LCP Policies:

LUP Policy 3.5-7 states that:

Off site advertising signs, other than small directional signs not exceeding 2 square feet, will not be permitted in designated 'highly scenic areas.' Direction, access, and business identification signs shall minimize disruption of scenic qualities through appropriate use of materials, scale and location. Caltrans should be requested to develop and install a system of small standardized highway signs which will identify, by easily recognized symbols, a full range of visitor services and accommodations, including restaurants, inns, and campgrounds. Appropriate handcrafted signs should be encouraged.

Zoning Code Section 20.308.110 **Definitions (S)** states in relevant part that:

(21) 'Sign, Off-Site' means any signs as defined in this section other than an onsite sign.

- (22) *'Sign, On-Site'* means a sign which pertains and is accessory to a business or other use located on the same lot or which offers a lot or portion thereof for sale.

Zoning Code Section 20.476.025 states in relevant part that:

The following standards shall apply to all on-site signs:

(D) Signs shall not block public views of the ocean

(J) ...the total square footage of all signs on a lot may not exceed forty (40) square feet...

Discussion: The approved development includes the installation of a 32-square-foot sign located on an open coastal terrace approximately 650 feet to the east of the approved barn and approximately 200 feet west of Highway One. The 150-foot-wide Caltrans right of way along Highway One precludes placing the sign closer to the highway. As conditioned by the County, the sign must be constructed of wood and may not be illuminated by any source.

As stated above, LUP Policy 3.5-7 limits the size of off-site signs in highly scenic areas to 2 square feet. However, Zoning Code Section 20.308.110 defines an on-site sign as *'a sign which pertains and is accessory to a business or other use located on the same lot.'* Given that the approved sign pertains to the business that is located on the same lot that the sign is on, it is clearly an on-site sign as defined by Zoning Code Section 20.308.110. Therefore, the appellants incorrectly assert that the sign should be considered an off-site sign.

The Commission also notes that LUP Policy 3.5-7 further states that signs *'shall minimize disruption of scenic qualities through appropriate use of materials, scale and location'* and that Zoning Code Section 20.308.110 states that signs will not block public views to the ocean. The approved sign will slightly affect views to the ocean from certain vantage points and viewing angles, but for the most part the sign would be viewed against the vegetated marine terrace and not the ocean itself. Although the approved sign may slightly affect certain views to the ocean, it does not necessarily block a view of the ocean. (emphasis added)

Therefore, the Commission finds that no substantial issue is raised with regard to the provisions of LUP policies 3.5-7 and Zoning Code sections 20.308.110 that restrict the size of off-site signs and call for on-site signs to be sited and designed to protect public views of the ocean.

Conclusion.

The Commission finds that, as discussed above, the appeal raises a substantial issue with respect to the conformance of the approved project with the policies of the LCP concerned with visual resources and building height limitations, with LCP policies regarding the expansion of non-conforming uses, and with Coastal Act and LCP policies regarding public access.

PART TWO-DE NOVO ACTION ON APPEAL

Notes

1. Procedure.

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

I. MOTION, STAFF RECOMMENDATION DE NOVO, AND RESOLUTION:

MOTION:

I move that the Commission approve Coastal Development Permit No. A-1-MEN-00-02 for the development proposed by the applicant.

RECOMMENDATION OF APPROVAL:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY THE PERMIT:

The Commission hereby denies a coastal development permit for the proposed development on the ground that the development will not conform with the certified County of Mendocino Local Coastal Program and the access policies of Chapter 3 of the Coastal Act. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

II. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares as follows:

1. Incorporation of Substantial Issue Findings.

The Commission hereby incorporates by reference the Substantial Issue Findings above

2. Site and Project Description.

As discussed in Finding C of the Substantial Issue portion of this report, the proposed development consists of the expansion of an existing non-conforming winery operation to include a new wine tasting facility and expanded storage and office space. The proposed site improvements include (1) a 28-foot-tall, two-story barn with a 2,640-square-foot footprint; (2) a 2,271-square-foot addition to an existing building; and (3) a thirty-two-square-foot sign.

3. Previous Commission Permit.

As discussed in Finding C of the Substantial Issue portion of this report, in 1988 the Commission issued Permit No. 1-88-19 (Goldenberg), which approved a 30.5-foot-tall wine making building with attached living quarters, a well, a septic system, a driveway, a 5000-gallon water tank, and a test plot vineyard on the subject site.

4. Visual Resources.

Mendocino County LUP Policy 3.5-1 states in applicable part:

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

Mendocino County LUP Policy 3.5-3 states in applicable part:

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

The entire coastal zone from the Ten Mile River estuary (including its wooded slopes, wetlands, dunes and ocean vistas visible from Highway 1) north to the

Hardy Creek Bridge, except Westport Beach Subdivision which is a recognized subdivision containing parcels approximately 20 acres in size covered by Policy 4.2-1 and is East of Highway 1.

In addition to other visual policy requirements, new development west of Highway One in designated 'highly scenic areas' is limited to one-story (above natural grade) unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. ...New development should be subordinate to the natural setting and minimize reflective surfaces. ...

Mendocino County Zoning Code Section 20.356.040 Building Height Limit for AG Districts, in relevant part limits building heights to:

Twenty-eight (28) feet above natural grade for non-Highly Scenic Areas and for Highly Scenic Areas east of Highway One. Eighteen feet above natural grade for Highly Scenic Areas west of Highway One unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. ...

As mentioned above, the subject site is located on an open coastal terrace in a largely undeveloped designated highly scenic area. The proposed development includes the construction of a 28-foot-tall, two-story barn with a 2,640-square-foot footprint, a 2,271-square-foot addition to an existing building, and a 32-square-foot sign. Mendocino County LCP Policy 3.5-3 requires that new development located within highly scenic areas must be limited to one story and must be subordinate to the character of its setting. Mendocino County Zoning Code Section 20.356.040 further states that that new development located within designated highly scenic areas shall be limited to 18 feet above natural grade unless an increase in height would not affect public views to the ocean. Based on the information submitted by the applicant, the proposed 2,271-square-foot building addition would extend from the seaward side of the existing barn and would not be visible from public vantage points along Highway One. However, the proposed 28-foot-tall barn would be visible from Highway One to the extent that the proposed structure would not be subordinate to its natural setting and would block a portion of an expansive blue water view that is visible from multiple locations along Highway One. The 28-foot-tall barn would affect public views to the ocean to a greater extent than an 18-foot-tall structure would. Additionally, both of the proposed structures would be noticeably visible from sea.

The Commission notes that the proposed development takes advantage of the site's natural topography by locating the proposed structures approximately 800 feet away from Highway One on the site's lower terrace which decreases the appearance of the new structures from public vantage points near and along Highway One. The proposed barn at 28 feet will also be roughly comparable in height to the existing structure at 30 feet and will also be similar in width. These features help make the proposed development more compatible with the character of its setting. However, since the site is within a

designated highly scenic area, the development must meet the more stringent standard of LUP Policy 3.5-3 that mandates that any new development be subordinate to the character of its setting. As the proposed barn structure would block blue water views of the ocean and add to the existing winery development at the site in a manner that doubles the number and mass of buildings, the Commission finds that the proposed development is not subordinate to the character of its setting, either as viewed from Highway One or from the sea. From boats at sea, the development would appear even less subordinate to the character of its setting than it would from vehicles on Highway One because views of the development would not be partially blocked by intervening topographical features as they are from the highway and the full 28-foot height of the new barn would be fully exposed. Given that the development is within a very open part of the coast where comparatively few structures have been built, views from the ocean are of particular concern.

The Commission also finds that, based on the information provided, the applicant has not evaluated other development configurations that could meet the applicants needs and comply with the LCP policies pertaining to visual resources. Alternatives include a smaller barn, an 18-foot-tall barn with a same footprint as the proposed barn, or an 18-foot-tall barn with a larger footprint. The applicant has informed the Commission staff that the proposed barn has been designed to provide the optimum temperature regime needed for winemaking and wine storage by optimizing the ratio of the buildings interior volume to roof area, thus maintaining the desired balance of heat inputs from insolation and heat outputs from natural ventilation and cooling. The applicant has indicated that a shorter structure would not provide the required temperature regime and in essence would overheat due to the increase in the structures roof area relative to its interior volume. However, the applicant could consider other means of obtaining the desired temperature control, such as air conditioning, enhanced ventilation or constructing the building partially below the ground surface to take advantage of the temperature moderating affects of the earth. Another option would be to change the arrangement of rooms and functions within the existing and proposed buildings to provide for storage of wine only in the existing tall building to take advantage of its natural cooling properties and locating other elements of the business in a new shorter structure.

Therefore, for all of the above reasons, the Commission finds that the proposed development is not consistent with the LCP policies pertaining to visual resources, including LUP Policy 3.5-3 and Zoning Code Section 20.356.040. In addition, the Commission also finds that the applicant has not demonstrated why other less environmentally damaging alternatives to the proposed development such as an 18-foot-tall structure are not feasible. Therefore, the Commission finds that the proposed development must be denied.

5. Zoning and Non-Conforming Use.

Mendocino County LUP Policy 3.2-4 states that:

Zoning regulations shall not discourage compatible activities that enhance the economic viability of an agricultural operation. These may include cottage industry, sale of farm products, timber harvesting, not subject to the Forest Practices Act and limited visitor accommodations at locations specified in the plan. Visitor accommodations shall be secondary to the agricultural activity. Proposed projects shall be subject to a conditional use permit. Granting of the permit shall require affirmation findings to be made on each of the following standards. The project shall:

- *maximize protection of environmentally, sensitive habitats;*
- *minimize construction of new roads and other facilities;*
- *maintain views from beaches, public trails, roads and views from public viewing areas, or other recreational areas;*
- *ensure adequacy of water, sewer and other services;*
- *ensure preservation of the rural character of the site; and*
- *maximize preservation of prime agricultural soils;*
- *ensure existing compatibility by maintaining productivity of on site and adjacent agricultural lands.*

The AG Land Use classification as set forth on page 23 of the LUP that principally permitted uses under this classification include the following:

Agricultural uses; including one single family dwelling unit and associated utilities; the processing and sale of agricultural products and home occupations.

Mendocino County Zoning Code Section 20.336.035 **Packing and Processing**, in relevant part states that:

Packing or processing of agricultural crops, animals and their byproducts which entails more than picking, cutting, sorting and boxing or crating, but does not include rendering, tanning, or reduction of meat. The following are packing and processing use types:

- (A) ***Packing and Processing: Limited.*** *Packing or processing of crops grown on the premises. Includes mineral water bottling plants.*
- (B) ***Packing and Processing: Winery.*** *Crushing of grapes and fermentation, storage, and bottling of wine from grapes grown on or off the premises. Said use type also includes tasting room in conjunction with a winery and breweries provided said tasting room occupies less than twenty-five (25) percent of the floor space of the winery/brewery and sales are limited to products produced on site.*

Mendocino County Zoning Code Section 20.356.010 **Principal Permitted Use for AG Districts**, states that:

The following use types are permitted in the Agricultural District:

- (A) **Coastal Residential Use Types.**
*Family Residential; Single-family;
Vacation Home Rental.*

- (B) **Coastal Agricultural Use Types.**
*Horticulture;
Light Agriculture;
General Agriculture;
Row and Field Crops;
Tree Crops.*

Mendocino County Zoning Code Section 20.356.015 **Conditional Uses for AG Districts**, states that:

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

- (D) **Coastal Agricultural Use Types.**
*Animal Waste Processing;
Aquaculture;
Packing and Processing: **Limited.** (emphasis added)*

Zoning Code Section 20.480.005 states that:

To allow for the continued utilization of lawfully existing improvements and uses made nonconforming by the adoption of the Coastal Element of the Mendocino County General Plan and this Division, where the use is compatible with adjacent land uses and where it is not feasible to replace the activity with a conforming land use.

- (A) *A nonconforming use is a use of a structure or land which was lawfully established and maintained prior to the adoption of this Division but which does not conform with the use regulations for the zone in which it is located.*

- (B) *A nonconforming structure is a structure which was lawfully erected prior to the effective date of the application of these regulations but which, under this Division, does not conform with the standards of yard spaces, height of structures, distance between structures, parking, etc., prescribed in the regulations for the zone in which the structure is located. (Ord. No. 3785 (part), adopted 1991)*

Mendocino County Zoning Code Section 20.480.010 states that:

(A) *A legal nonconforming use or structure may be continued if it conforms to the following criteria:*

(1) *If the existing use is contained within a structure built or modified to accommodate the existing use, conformance is required with the applicable building code and/or zoning code in effect at the time of construction or modification.*

(2) *The use must be compatible with adjacent land uses, such that its hours of operation, noise levels, aesthetic impacts, and traffic to the site do not now significantly adversely impact adjacent land uses.*

(B) *Routing maintenance and repairs may be performed on a nonconforming structure or site. (Ord. No. 3785 (part), adopted 1991)*

Mendocino County Zoning Code Section 20.480.025 **Expansion or Reduction of Nonconforming Uses**, states that:

(A) *Existing legal nonconforming uses conforming with Section 20.480.010 may be expanded or reduced to a use of lesser intensity through the issuance of a Coastal Development Use Permit provided the following findings are made: (emphasis added)*

(1) *That it is not reasonably economically or physically feasible to make the use of the property compatible with the applicable general plan designation; and*

(2) *That the use is, and, after expansion, will be compatible with adjacent land uses and that any increased adverse impacts on access or public facilities and services will be mitigated; and*

(3) *That the site is physically separate from surrounding properties such that continued nonconforming use is appropriate in that location; and*

(4) *The expansion is found consistent with all other applicable policies of the Coastal Element of the Mendocino County General Plan.*

(B) *A legal nonconforming mobile home may be replaced by a new mobile home without a use permit if no use permit was required for the original installation. (Ord. No. 3785 (part), adopted 1991)*

The proposed project is intended to expand an existing winery that was originally approved by the Commission in 1988 pursuant to Permit No. 1-88-19 (Goldenberg). The Commission approved the existing winery as being consistent with the agricultural land use designation specified under the certified LUP at the time of approval. The County's

LUP designation for Agriculture (AG) has generally allowed the processing and sale of agricultural products as a principally permitted use in Agriculture (AG) districts, including wineries. The original approval was granted after certification of the LUP, but prior to certification of the County's Coastal Zoning Ordinance and transfer of coastal development permit authority to the County. However, pursuant to the more specific standards of Zoning Code Sections 20.356.010 and 20.356.015, which were enacted after the existing winery was established, wineries are neither a principally permitted use nor an allowable conditional use in agricultural zoning districts within the Mendocino County coastal zone. Zoning Code Section 20.336.035 differentiates "Packing and Processing: Winery" and "Packing and Processing: Limited" as two distinct use types, and the Coastal Zoning Code only allows "Packing and Processing: Limited" and not "Packing and Processing: Winery" as an allowable conditional use type within agricultural zoning districts. The subject property is zoned as Agricultural (AG-60) under the County's current LCP. Consequently, pursuant to Section 20.480.005(A), the existing winery is a legal non-conforming use as it is a use that was lawfully established and maintained prior to the adoption of the Coastal Zoning Ordinance but does not conform to the current regulations for the zone.

Mendocino County Zoning Code Section 20.480.025 indicates that a non-conforming use can only be expanded if the expansion is found consistent with all other applicable policies of the Coastal Element of the Mendocino County General Plan. LUP policy 3.2-4 provides that certain activities that are compatible with agricultural operations can be approved by a conditional use permit if certain findings can be made, including a finding that the project shall maintain views from beaches, public trails, roads, and public viewing areas. However, as mentioned above, the Commission finds that the proposed project is not consistent with LUP policy 3.5-3, which pertains to the protection of visual resources, as the project will block a portion of a blue water view from the highway and will not be subordinate to the character of its setting. Therefore, the commission finds that the project is not consistent with LUP Policy 3.2-4 and Zoning Code Section 20.480.025. Furthermore, Zoning Code Section 20.480.025 also states that a non-conforming use can only be expanded to a use of lesser intensity (emphasis added). However, the approved project is actually an intensification of use, as the applicant is seeking expand winery operation to increase production to 5,000 cases per year, and add a public tasting room. Therefore, the Commission finds that the project is not consistent with LCP policies pertaining to the expansion of non-conforming uses. Therefore, the Commission finds that the proposed project must be denied.

6. California Environmental Quality Act (CEQA).

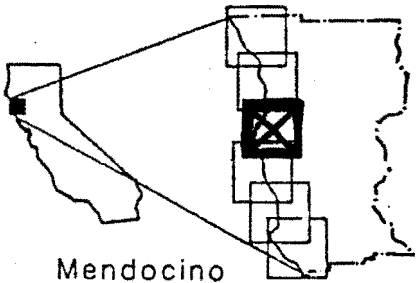
Section 13096 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental 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 effects which the activity may have on the environment.

The proposed project is not consistent with the policies of the certified Mendocino Local Coastal Program that require the protection of visual resources and limit the expansion of non-conforming uses. There are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project cannot be found consistent with the requirements of the Coastal Act and to conform to CEQA.

Exhibits:

1. Location Map
2. Vicinity Map
3. Site Plan
4. Elevations
5. LUP map
6. Appeal to Commission, January 12, 2000
7. Appeal reference: Notice of Final Action
8. Appeal reference: County Staff Report
9. Staff Report for original project
10. Botanical Report
11. Geotechnical Report
12. Applicants Correspondence
13. Correspondence



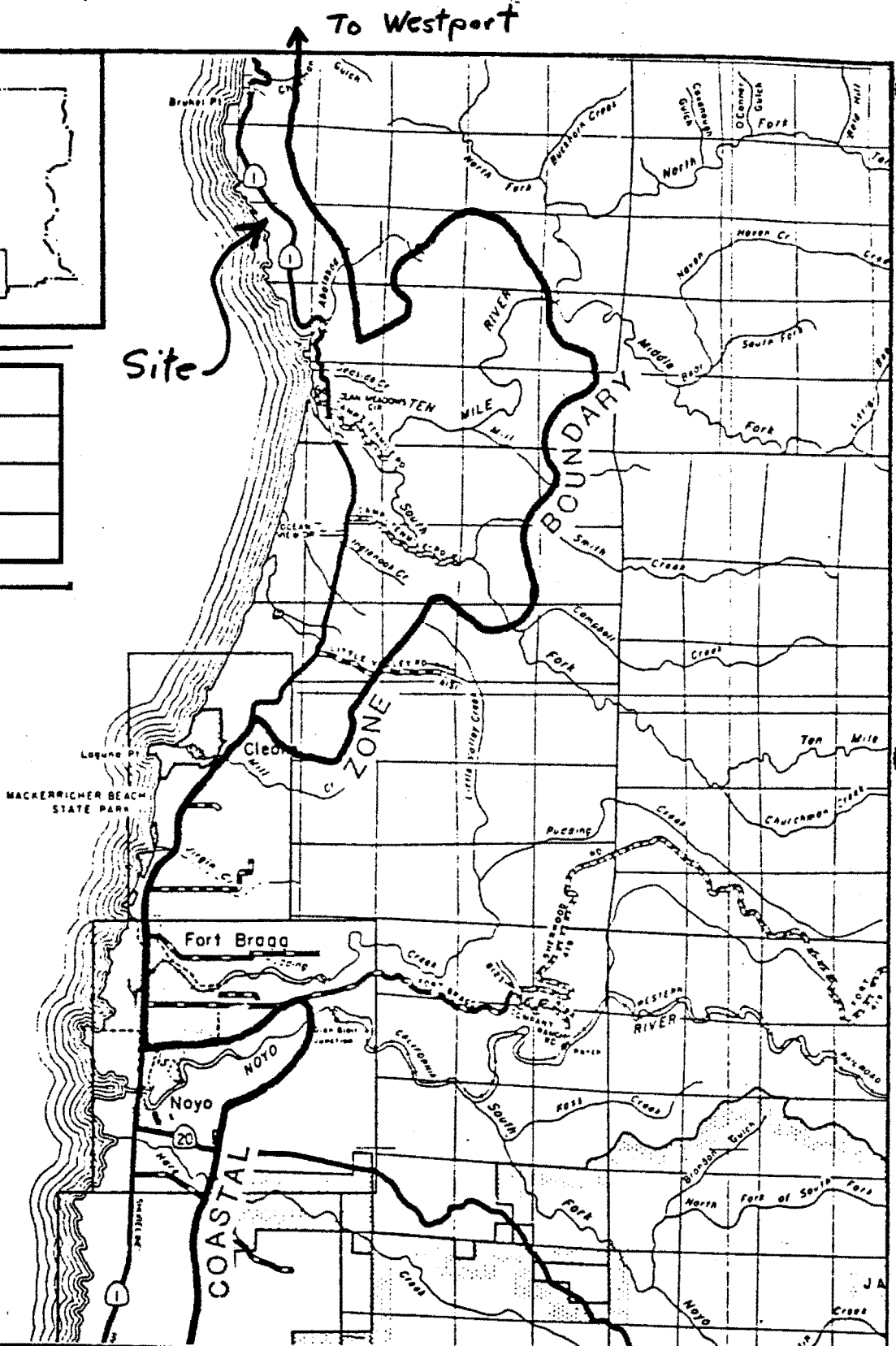
Mendocino

EXHIBIT NO. 1

APPLICATION NO.
A-1-MEN-00-02

OTTOSON

LOCATION MAP



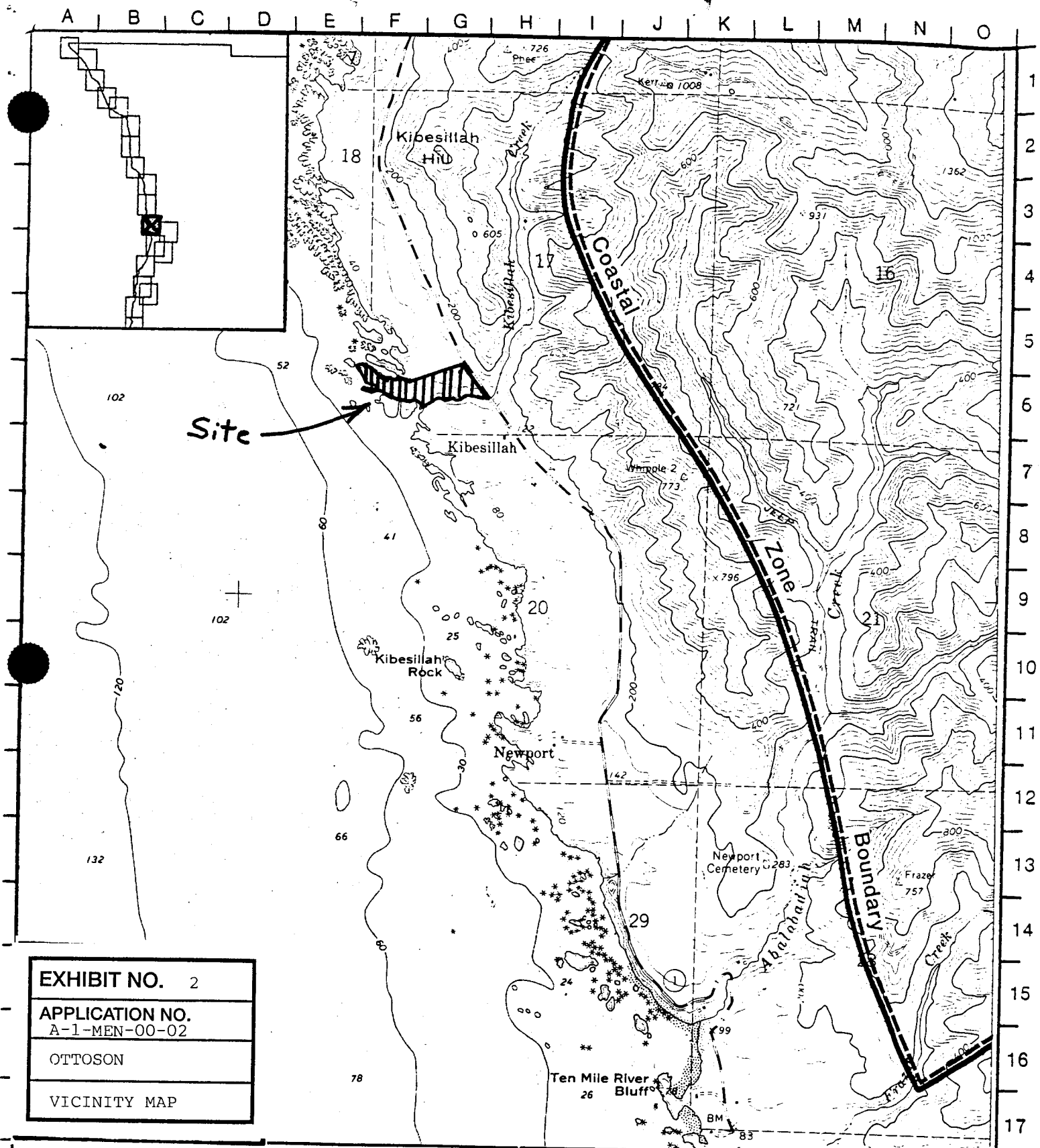



EXHIBIT NO.	2
APPLICATION NO.	A-1-MEN-00-02
OTTOSON	
VICINITY MAP	



 California Coastal Commission

0'-0" PLUFF

50'-0" NEW DRAIN

RETENTION WALL

SECTION A-A

LEGEND

- NO MONUMENT
- ⊙ SET 3/4" REBAR TIED TO 3/4" 4
- ⊙ 4" 4" CONC. HWY. MONUMENT

Highway I

PL.

A-A

NEW BARN

NEW TASTING ROOM

PARKING

EXISTING 1000 gal S/TANKS

PARKING

EXISTING WELLS

BOUNDARY OF VEGETATION RETENTION (15'-30' AVERAGE SLOPE TO CREEK)

50' BUFFER ZONE.

15' ROWWAY & PUBLIC UTILITY EASEMENT

STATE HWY.

NE

HEAD OF LINE

TOP OF BLUFF

TOP OF BLUFF

SEPTIC REPLACEMENT SYSTEM

SEPTIC SYSTEM

CENTER LINE

142.85'

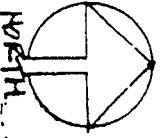
127.00'

178.07'

141.50'

135.51'

10.56'



PLOT PLAN

EXHIBIT NO. 3
APPLICATION NO. A-1-MEN-00-02
OTTOSON
SITE PLAN

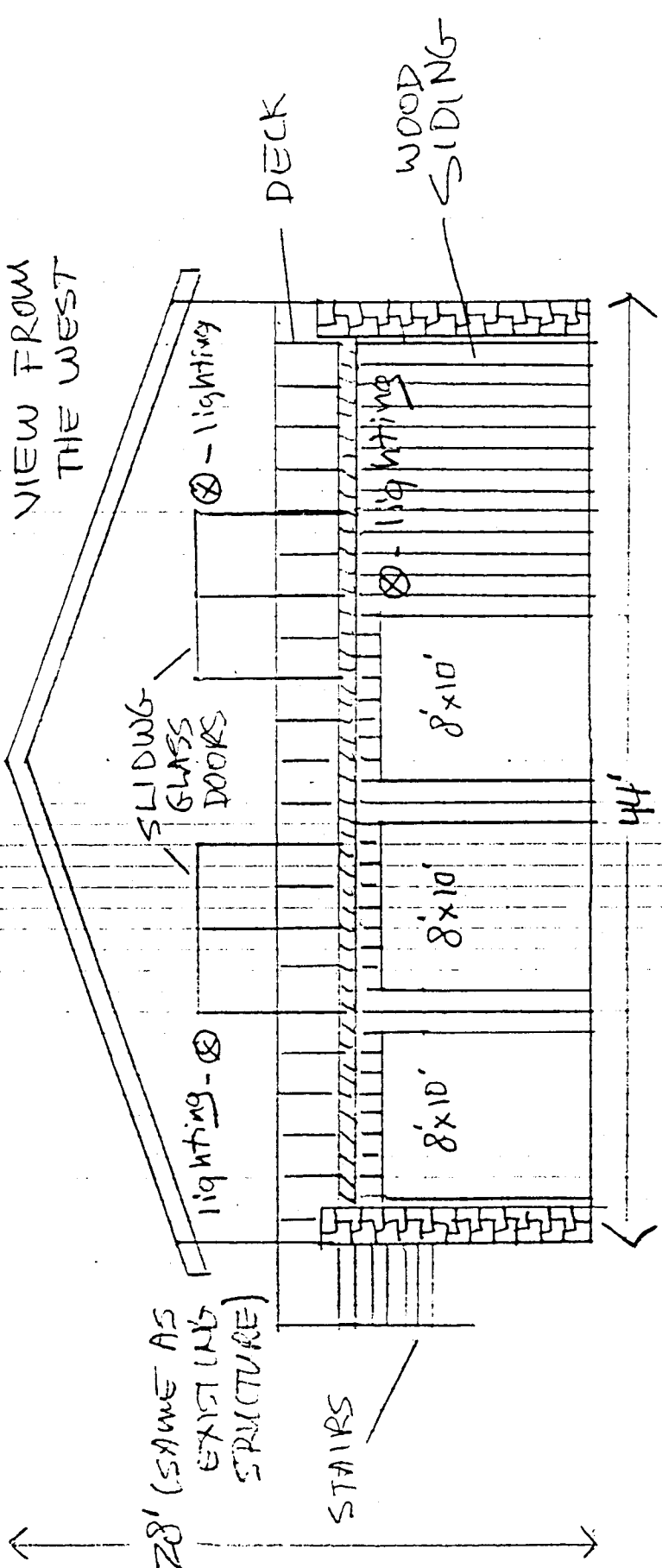
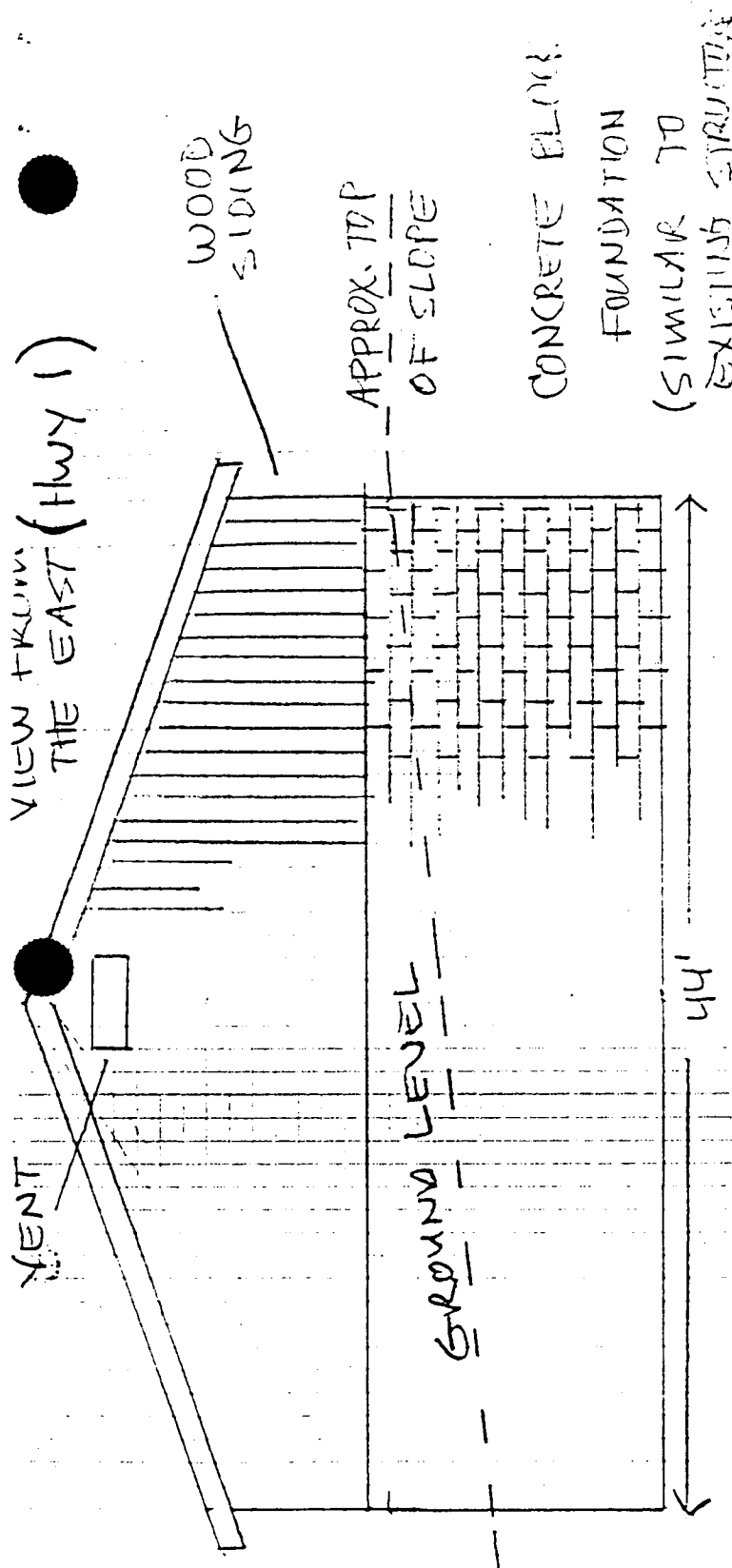
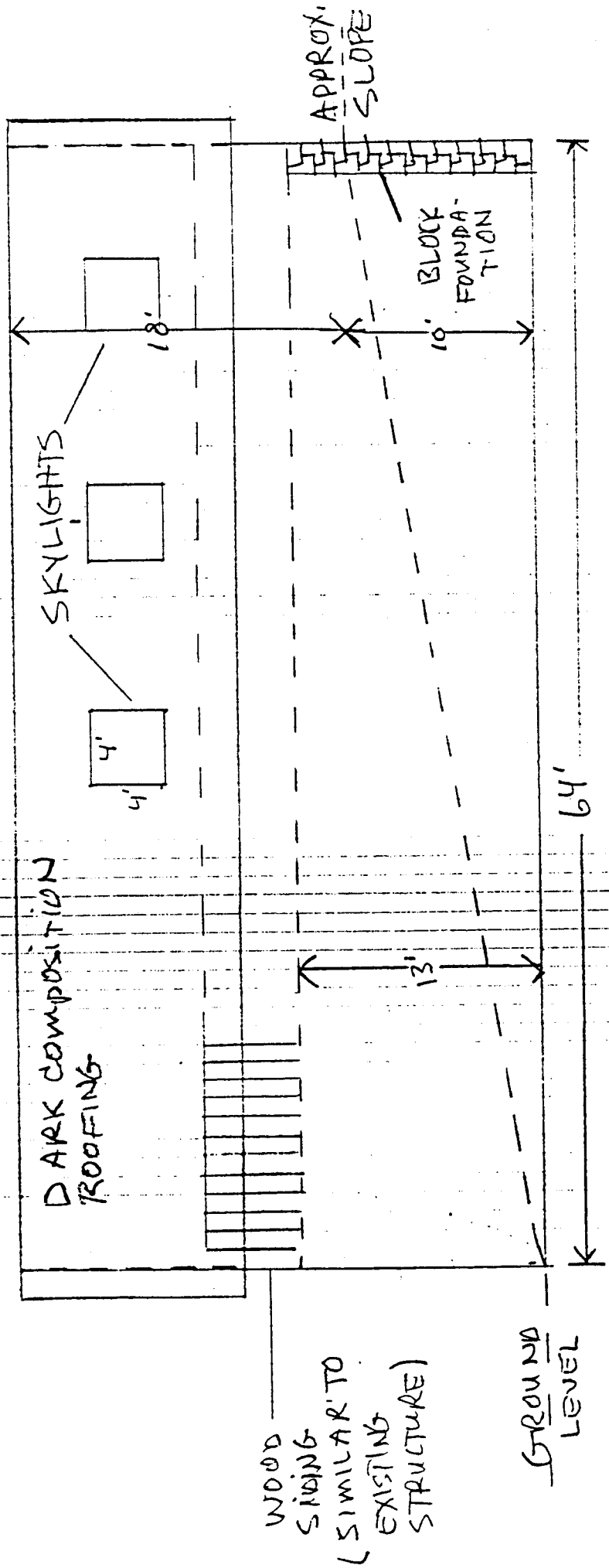
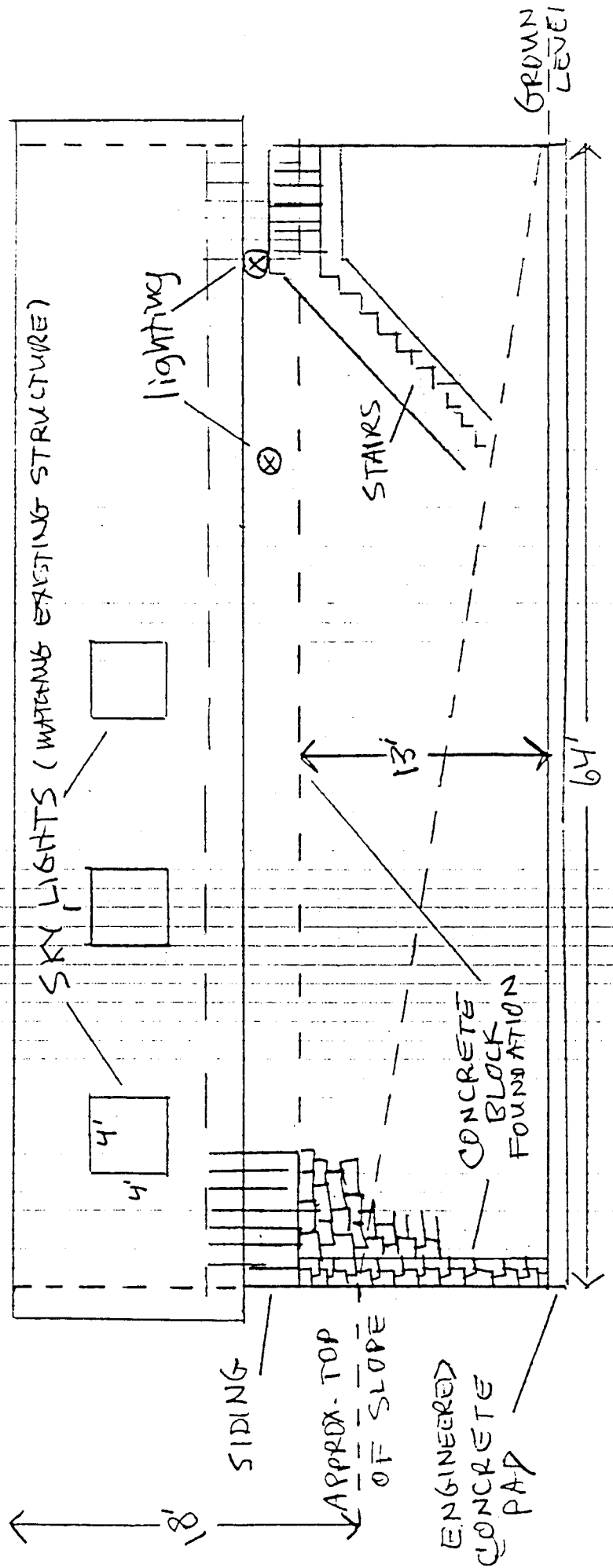


EXHIBIT NO.	4
APPLICATION NO.	1-MEN-00-02
TOSON	
ELEVATIONS	

WINE STORAGE BARN - SOUTH VIEW

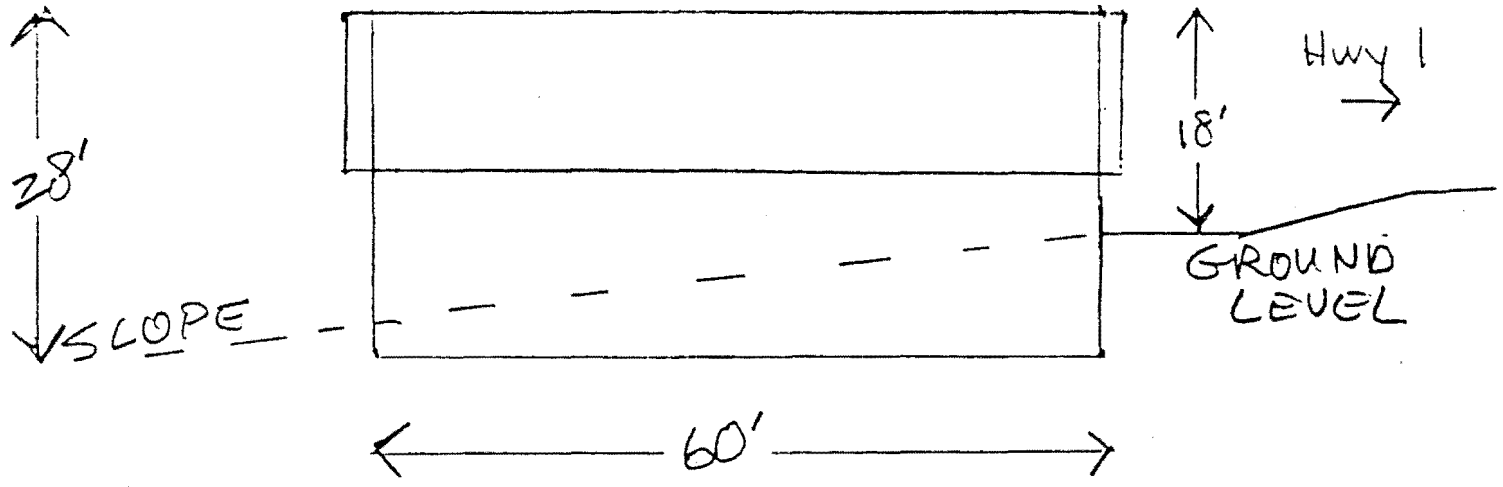


WINE STORAGE BARN - NORTH VIEW



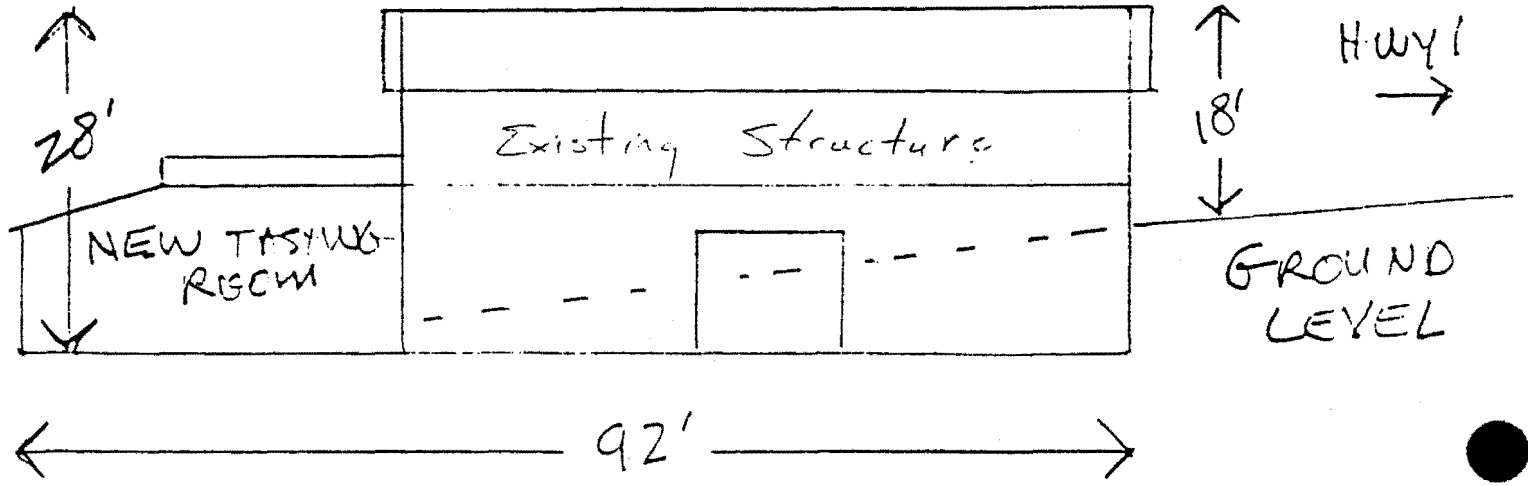
ELEVATIONS

NEW ELEVATION
N
↑



NEW TASTING ROOM AND DRY STORAGE / EXISTING HOME AND CELLAR

N
↑
1" = 16'



CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA

5 FREMONT, SUITE 2000

SAN FRANCISCO, CA 94105-2219

(415) 904-5260


 APPEAL FROM COASTAL PERMIT
 DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

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

MARY WALSH
PO BOX 161
ALBION CA. 95410 (707) 937-0572
 Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: MENDELINO COUNTY BOARD OF SUPERVISORS

2. Brief description of development being appealed: ENTITLEMENT TO EXPAND AN EXISTING WINERY OPERATION TO INCLUDE AN EXPANDED STORAGE AREA, OFFICE, AND WINE TASTING FACILITY. STORAGE WILL BE WITHIN AN ADDITION TO THE EXISTING FACILITY, AS WELL AS, NEW DETACHED BARN STRUCTURE.

3. Development's location (street address, assessor's parcel no., cross street, etc.): IN THE COASTAL ZONE LYING ON THE WEST SIDE OF HWY 1, APPROX. 9 1/2 MILES NORTH OF FORT BRAGG LYING IMMEDIATELY NORTH OF KIBESILLAH CREEK AT MILE POST MARKER 73.58. AP#15-376.

4. Description of decision being appealed:

- a. Approval; no special conditions:
- b. Approval with special conditions: _____
- c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-1-00-02DATE FILED: JANUARY 12, 2000DISTRICT: NORTH COAST

HS: 4/88

EXHIBIT NO.	6
APPLICATION NO.	A-1-MEN-00-02
OTTOSON	
APPEAL TO COMM. JANUARY 12, 2000	

RECEIVED
 JAN 12 2000

CALIFORNIA
 COASTAL COMMISSION

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

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

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

6. Date of local government's decision: 12. 17. 99

7. Local government's file number (if any): # CDU 16-99

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

- a. Name and mailing address of permit applicant:
OWNER: SALLY OTTOSON 3300 Hwy 1 Ft. Bragg 954
AGENT: ROBERT ZIMMER 3300 HWY 1 FT. BRAGG 954

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

- (1) MARY WALSH
PO BOX 161
ALBION CA. 95410
- (2) JOAN CURRY
BOX HOLDER
MENOCING CA. 95460
- (3) RISANNE WEHREN
PO BOX 349
ALBION CA. 95410
- (4) JUDITH VIDEVER
3200 CAMP 2 TEN MILE RA.
FORT BRAGG CA. 95437

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

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

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

The Coastal Plan does not permit wine tasting facilities or wineries in the coastal zone. This is commercialization in an area designated Highly Sensitive Coastal zone. Agriculture is supported in the Coastal zone for purposes of scenic protection and ground control. This development is ^{proposed for} an area which is among the most pristine of the entire California coast. I sign and a second story will impact the viewshed. There has been no viewshed analysis. There is no evidence of grape production at this site.

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

SECTION V. Certification

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

Mary Walsh

Signature of Appellant(s) or
Authorized Agent

Date 1/10/2000

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)
Date _____

Mary Walsh
POB 161
Albion, CA 95410
707-937-0572
Sierra Club - Mendocino-Lake Group
POB 2330
Fort Bragg, CA 95437

Eric Oppenheimer
CA Coastal Commission
707-445-7877

Following please find an elaboration of why CDU#16-99 is inconsistent with LCP policies 3.5-1, 3 and 7, and Coastal Element Policy #3.2-4.. There is as well included a discussion of inconsistencies with Mendocino County Zoning Code Sec. 20.480.010 from the Coastal Element of the Mendocino County General Plan. I am appealing CDU#16-99 because of these inconsistencies with the County of Mendocino Local Coastal Plan policies and county codes.

Visual Resources

Specifically the project is not consistent with LCP policy 3.5-1, 3, & 7 which require the scenic and visual qualities of Mendocino coastal areas to be protected as a resource of public importance.

Policy 3.5-3 identifies the property in question as being in a designated "highly scenic area" and states that "new development west of Highway one in designated "highly scenic areas" is limited to one story unless and increase in height would not affect public views to the ocean...." The proposed 28' high barn/winery will obstruct public views from both the west and the north from Highway 1.

Policy 3.5-7 states that off-site advertising signs, other than small directional signs not exceeding 2 square feet, will not be permitted in designated "highly scenic areas". For planning purposes, an on-site sign is attached to the building, or in very close proximity. The proposed 32 foot square sign would stand alone in the middle of a 15 acre parcel, 650' feet from the building, with no height limit. This would seem to violate the scenic area designation.

All of the decisions on height limit and visual resources were made without the benefit of the practice of erecting "story poles" to show the effect on public resources. The claim is made that the first

level of the building would be hidden, but without the story poles, it is impossible to determine. The assumption that the land slopes enough to cover 10 feet of the structure is unsupported.

The Planning Commission unanimously denied the application, and the Board of Supervisors overturned its Commission without ever visiting the site.

Inappropriate to the Zoning

The proposed project does not conform with the zoning of Agricultural, 60 acre minimum, nor does it qualify under the Expansion of Nonconforming Uses (Sec, 20.480.025) which requires that the expansion be consistent with all other applicable policies of the Coastal Element of the Mendocino County General Plan. As mentioned above it does not comply with the visual resources provisions.

The staff report makes it clear that a winery is not permitted in any area of the Coastal Zone, even via a use permit. The project is only considered under the expansion of a non-conforming use granted prior to zoning. However, the agricultural use upon which this is based has proven non-viable. In fact, there is no agricultural production here to be "enhanced". The vineyard has not produced grapes for the winery, all grapes are trucked in, as stated by the applicants in Commission hearings.

Therefore, the claim that the additions are for the enhancement of an permitted agricultural use has no validity. The proposal is actually to abuse the agricultural designation to establish an industrial facility as well as a oceanview retail store in the Coastal Zone. There are no other commercial or retail facilities along the coast from Mackerriker State Park to Westport, and this facility certainly cannot claim to be in keeping with the surrounding land uses.

Coastal Element Policy 3.2-4 requires findings that the project will "maintain views from the beaches, public trails, roads, and views from public viewing areas", and "ensure preservation of the rural character of the site." Neither of these findings can be supported with this project.

Public Access

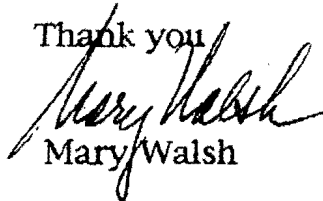
The issue of public access was also inadequately addressed in the decision. The LCP includes a designation of the California Coastal Trail along the side of Highway 1 wherever it is not otherwise located along the blufftop. The planning department overlooked this requirement of dedication of a 15' easement along the highway for

the establishment of the trail. Such an easement should be part of the conditions of the permit.

If it is the case that the permit is granted allowing the construction of a building 28' high, the loss of visual resources must also be mitigated. The proposal could be seen as an effort to establish a visitor-serving facility (tasting room and retail outlet) on this parcel, which would necessitate the dedication of a public access easement to the ocean. This area has very little access, and if it is going to be commercialized, the Coastal Commission should be planning for public access trails.

Please add this supplemental information to my appeal form sent previously.

Thank you



Mary Walsh



December 29, 1999

RECEIVED
JAN 03 2000
CALIFORNIA
COASTAL COMMISSION

NOTICE OF FINAL ACTION

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

CASE#: CDU 16-99

DATE FILED: May 6, 1999

OWNER: SALLY OTTOSON

AGENT: ROBERT ZIMMER

REQUEST: Entitlement to expand an existing winery operation to include an expanded storage area, office and wine tasting facility. Storage will be within an addition to the existing facility as well as a new, detached barn structure.

LOCATION: In the Coastal Zone, lying on the west side of Highway 1, approximately 9+- miles north of Fort Bragg, lying immediately north of Kibesillah Creek, at mile post marker 73.58; AP# 15-370-11.

PROJECT COORDINATOR: Frank Lynch

ACTION TAKEN:

The Board of Supervisors, on December 13, 1999, approved the above described project. See attached documents for the findings and conditions in support of this decision.

This project is appealable to the Coastal Commission pursuant to Public Resources Code, Section 30603. An aggrieved person may appeal this decision to the Coastal Commission within 10 working days following Coastal Commission receipt of this notice. Appeals must be in writing to the appropriate Coastal Commission district office.

Attachments

cc: Robert Zimmer
Sally Ottoson
Coastal Commission
Assessor

EXHIBIT NO.	7
APPLICATION NO.	A-1-MEN-00-02
	OTTOSON
APPEAL REFERENCE:	NOT. OF FINAL ACT.

**BOARD OF SUPERVISORS MINUTES
DECEMBER 13, 1999**

5. CDU# 16-99 - SALLY OTTOSON (OWNER/APPELLANT) ROBERT ZIMMER (AGENT) - APPEAL

REQUEST: Entitlement to expand an existing winery operation to include an expanded storage area, office and wine tasting facility. Storage will be within an addition to the existing facility as well as a new, detached barn structure.

LOCATION: In the Coastal Zone, lying on the west side of Highway 1, approximately 9+- miles north of Fort Bragg, lying immediately north of Kibesillah Creek, at mile post marker 73.58; AP# 15-370-11.

Appeal of the Planning Commission decision on October 21, 1999, denying the permit.

Upon motion by Supervisor Delbar, seconded by Supervisor Lucier, and carried unanimously; IT IS ORDERED that proper notice of this meeting has been given.

Mr. Falleri and Mr. Frank Lynch, Planning and Building, reported that the applicant is appealing the denial of #CDU 16-99. Mr. Falleri explained that the use permit would authorize the expansion of an existing small winery, which would include expanded storage areas and a wine tasting facility. The primary concerns regarding this project pertained to the viability of the limited on-site vineyard and the "commercial" aspects of the wine tasting facility. Staff recommended that the operation of the tasting facility be tied to an expanded development of the vineyard.

Staff is recommending that the project be approved with the suggested conditions, which include a requirement that the on-site vineyard be expanded to a minimum of five acres prior to the authorization of any tasting facility. Without being "connected" to an agricultural endeavor (i.e. vineyard) on the property, staff and the Planning Commission finds that the project is more of a commercial use; an inappropriate use of agricultural land being inconsistent with the intent of the General Plan and agricultural zoning designation.

Mr. Falleri indicated that the majority of correspondence received regarding this item were in support of the use permit.

Supervisor Lucier questioned Condition A-4, on Page PC-8 of the Planning Commission minutes, regarding written verification from Caltrans indicating that the road encroachment meets appropriate Caltrans standards for the intended use.

2-1685

Mr. James Jackson, representing the appellant, provided a statement regarding

the requested appeal of the Planning Commission's denial of the requested Use Permit.

Mr. Jackson noted that the proposed development meets all requirements and suggested conditional approval of the permit based upon the expansion of the vineyard over a five-year period of time.

Mr. Jackson provided the Board with a photograph of the winery.

THE PUBLIC HEARING WAS OPENED. The following members of the public spoke to the issue: Mr. Bud Kamb and Mr. Larry Wagner spoke to the issue. THE PUBLIC HEARING WAS CLOSED.

Supervisor Colfax questioned the history relative to the expansion of legal non-conforming operations. Mr. Falleri indicated that this is a typical request and that at least two per year are heard.

LUNCH RECESS: 11:53 A.M. - 1:40 P.M.

2-2495

Upon motion by Supervisor Campbell, seconded by Supervisor Colfax, and carried unanimously; IT IS ORDERED that the Board of Supervisors overturns the action of the Planning Commission and approves #CDU 16-99 subject to the findings and conditions listed on pages PC-6 through PC-9 of the staff report, as revised with the modifications to the condition A-3 based upon the vineyards being expanded (five acres within five years); changing "Planning Commission" to "Board of Supervisors" where appropriate in the findings and Condition B-6; modify Condition B-3 to be a "maximum of thirty-two feet"; and modify Condition A-2 to reflect "de minimis" findings thereby making the applicant exempted from the responsibility for payment of the Fish and Game filing fees required or authorized by Section 711.4 of the Fish and Game Code and changing the date to December 17, 1999.

Discussion on motion:

Mr. Falleri indicated that Planning and Building would require verification of the vineyard planting and modify the wording in Condition A-3 significantly.

Supervisor Delbar requested that Condition A-2 be amended to a de minimis finding for the Fish and Game fees.

Supervisor Colfax noted that the approval of the appeal does not set a precedence, supports the de minimis findings for Fish and Game, and requested striking Condition A-5.

**FINAL FINDINGS AND CONDITIONS
FOR COASTAL DEVELOPMENT USE PERMIT
#CDU 16-99 - OTTOSON
DECEMBER 13, 1999**

Environmental Findings: The Board of Supervisors finds that no significant environmental impacts would result from the proposed project which can not be adequately mitigated through the conditions of approval, therefore, a Negative Declaration is adopted.

General Plan Consistency Finding: As discussed under pertinent sections of the staff report, the proposed project is consistent with applicable goals and policies of the General Plan as subject to the conditions of approval.

Department of Fish and Game Findings: The Board of Supervisors finds that an initial study has been conducted evaluating the potential for adverse impacts and when considering the record as a whole there is no evidence before the Board that the proposed project will have potential for an adverse effect on wildlife resources or the habitat upon which the wildlife depends. Therefore, the Board rebuts the presumption set forth in subdivision (d) of Section 753.5.

Coastal Development Permit Findings: The Board of Supervisors finds that the application and supporting documents and exhibits contain information and conditions sufficient to establish, as required by Section 20.532.095 of the Coastal Zoning Code, that:

1. The proposed development is in conformity with the certified local coastal program; and
2. The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities; and
3. The proposed development is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of the Coastal Zoning Code, and preserves the integrity of the zoning district; and
4. The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.
5. The proposed development will not have any adverse impacts on any known archaeological or paleontological resource.
6. Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.
7. The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and the Coastal Element of the General Plan.
8. Environmentally Sensitive Habitat Areas.
 - a. The resource as identified will not be significantly degraded by the proposed development.

- b. There is no feasible less environmentally damaging alternative.
 - c. All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.
9. The proposed use is compatible with the long-term protection of resource lands.
10. Agricultural Land Impact Findings.
- a. The project maximizes protection of environmentally sensitive habitat areas;
 - b. The project minimizes construction of new roads and other facilities;
 - c. The project maintains views from beaches, public trails, roads and views from public viewing areas, or other recreational areas;
 - d. The project ensures the adequacy of water, waste water disposal and other services;
 - e. The project ensures the preservation of the rural character of the site;
 - f. The project maximizes preservation of prime agricultural soils;
 - g. The project ensures existing land use compatibility by maintaining productivity of on-site and adjacent agricultural lands.
11. Expansion of a non-conforming use findings:
- a. That it is not reasonably economically or physically feasible to make use of the property compatible with the applicable general plan designation; and
 - b. That the use is, and, after the expansion, will be compatible with adjacent land uses and that any increased adverse impacts on access or public facilities and services will be mitigated; and
 - c. That the site is physically separate from surrounding properties such that continued nonconforming use is appropriate in that location; and
 - d. The expansion is found consistent with all other applicable policies of the Coastal Element of the Mendocino County General Plan.

Project Findings: The Board of Supervisors, making the above findings, approves #CDU 16-99 subject to the following conditions of approval.

RECOMMENDED CONDITIONS:

- A. **Conditions which must be met prior to use and/or occupancy and for the duration of this permit:**

1. Development of future improvements shall comply with the construction and setback standards recommended within the Engineering Geologic Reconnaissance," by BACE Geotechnical, dated April 22, 1999 on file with the Department of Planning and Building Services.
2. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of \$25.00 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to December 17, 1999. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if project is approved) or returned to the payer (if project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void.
3. Prior to opening the tasting room to the public, the applicant shall plant additional vineyard, with supporting infrastructure, for a minimum total area of five (5) acres of grapes to be planted within five (5) years. Verification of compliance with this condition shall be submitted from the Mendocino County Department of Agriculture.
4. The applicant shall submit written verification from Caltrans that the road encroachment meets appropriate Caltrans standards for the intended use.
5. The applicant shall maintain a minimum of ten (10) on site parking spaces. Such spaces shall, at a minimum be surfaced with gravel.
6. The applicant shall comply with those recommendations in the California Department of Forestry letter of June 18, 1999 or other alternatives as acceptable to the Department of Forestry. Written verification shall be submitted from the Department of Forestry to the Department of Planning and Building Services that this condition has been met to the satisfaction of the Department of Forestry.

B. Conditions which must be complied with for the duration of this permit:

1. The applicant shall maintain a 50 foot buffer from the edge of the riparian vegetation along Kibesillah Creek as recommended in the Botanical Survey dated March 3, 1999, prepared by Gordon McBride.
2. All exterior lighting shall be shielded and downcast.
3. Only one sign, constructed of wood, and a maximum of thirty-two (32) square feet may be permitted on site. This sign must be setback a minimum of 150 feet from the centerline of Highway One. The sign may not be illuminated from any source.
4. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20 of the Mendocino County Code unless modified by conditions of the use permit.

5. That this permit be subject to the securing of all necessary permits for the proposed development and eventual use from County, State and Federal agencies having jurisdiction. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.
6. This permit shall be subject to revocation or modification by the Board of Supervisors upon a finding of any one (1) or more of the following grounds:
 - a. That such permit was obtained or extended by fraud.
 - b. That one or more of the conditions upon which such permit was granted have been violated.
 - c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety, or as to be a nuisance.

Any such revocation shall proceed as specified in Title 20 of the Mendocino County Code.

7. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.

**BOARD OF SUPERVISORS
ACTION AGENDA SUMMARY - PLANNING MATTERS**

TO: BOARD OF SUPERVISORS
FROM: PLANNING & BUILDING SERVICES

DATE SUBMITTED: December 3, 1999
REPLY NECESSARY: YES NO
INFORMATION ONLY: YES NO

AGENDA DATE: December 13, 1999

AGENDA #: _____

AGENDA TITLE: Appeal of Planning Commission denial of Use Permit #CDU 16-99 - Ottoson

BRIEF SUMMARY: The applicant is appealing the Planning Commission's denial of #CDU 16-99. The Use Permit would authorize the expansion of an existing small winery, which would include expanded storage areas and a wine tasting facility. The primary focus of the concerns regarding this project deal with the viability of the limited on-site vineyard and the "commercial" aspects of the wine tasting facility requested. Staff recommended that the operation of the tasting facility be tied to an expanded development of the vineyard.

PREVIOUS ACTION: On October 21, 1999 the Planning Commission voted (4-1) to deny the request without prejudice. Some Commission members had expressed concern that they did not believe that the tasting operation had any direct connection to on-site resource production.

STAFF RECOMMENDATION: Staff recommends that the project be approved with the suggested conditions, which include a requirement that the on-site vineyard be expanded to a minimum of five acres prior to authorization of any tasting facility. Without being "connected" to an agricultural endeavor (i.e., vineyard) on the property, staff and the Planning Commission finds that the project is more of a commercial use taking advantage of an attractive marketing area; an inappropriate use of agricultural land being inconsistent with the intent of General Plan and agricultural zoning designation.

RECOMMENDED MOTION: The Board of Supervisors overturns the action of the Planning Commission and approves #CDU 16-99 subject to the findings and conditions listed on pages PC-6 through PC-9 of the staff report, changing "Planning Commission" to Board of Supervisors where appropriate in the findings and Condition B-6 and changing the date in Condition A-2 to December 17, 1999.

ALTERNATIVE MOTION: The Board of Supervisors denies the appeal and upholds the action of the Planning Commission denying the request.

RESOURCE PERSON: Falleri TO BE PRESENT ON CALL PHONE EXT: 4281

BOARD ACTION

DATE OF ACTION _____

- 1) Approved Approved as Revised
- 2) Denied
- 3) Referred to _____ Committee; Calendared for Board Agenda _____
- 4) Referred to Dept. for additional info. CAO to clarify by memo _____
- 5) Other _____

EXHIBIT NO. 8
APPLICATION NO. A-1-MEN-00-02
OTTOSON
APPEAL REFERENCE: COUNTY STAFF REPORT

MENDOCINO COUNTY PLANNING COMMISSION
MINUTES - DRAFT
OCTOBER 21, 1999

5B. CDU 16-99 - SALLY OTTOSON - North of Fort Bragg

Request: Entitlement to expand an existing winery operation to include an expanded storage area, office and wine tasting facility. Storage will be within an addition to the existing facility as well as a new, detached barn structure.

Commissioner Barth advised that she took some photographs of the winery for a magazine and sold prints to Sally Ottoson. Counsel indicated that there would be no conflict given the length of time which has elapsed and the small monetary amount involved. She also stated that she has had contact with the applicant from time to time, however, has had no discussions regarding future expansion of the facility and finds that she can impartially act on the project.

Mr. Falleri summarized letters in support of the project received from Evelyn Hamby (Fensalden Inn), Peggy Merrill (Mendo Realty), Karen and Jay Hughes (Caspar Café), Kathleen Gordon-Burke (Mendocino County Promotional Alliance), Charles and Sharon Williams (Glendeven Inn), Ruth Rosenblum (Mendocino Coast Humane Society), Wallace Conroe (Mendocino Historical Research), Robert Bradley (Mendosa's), Lee Garrett (wine buyer for Harvest Market), Larry Wagner (Mendocino County Lodging Association), Congressman Mike Thompson, Norma Bartolomei (Mendocino County Farm Bureau), Glenn McGourty (U.C. Cooperative Extension), EveYeomans (Mendocino Coast Hospital Foundation), Terry and Marlene Anderson (Blue Victorian Inn, Westport). A letter was also received this morning from Mary Walsh in opposition to the project.

Mr. Falleri reviewed the staff report. He reviewed conditions which were required on recent applications to reduce glare from public roads which could be applied in this case if the project is approved.

Commissioner Barth commented that, during development of the Coastal Plan and interfacing with the General Plan, wineries were considered, however, it was thought by most at the time that there would be no development of wineries on the coast due to the climate. She noted that there are some areas in Manchester which might be appropriate for a vineyard and winery and felt that this should be considered during a future amendment of the Plan.

Mr. Robert Zimmer, representing the application, described the proposed project and discussed benefits of the expansion. Mr. Zimmer objected to Conditions A-3 and B-3. He stated that they do intend to add additional vines, however, it may be 2 to 4 years. Regarding Condition B-3, Mr. Zimmer requested additional square footage for the sign due to the necessary setback from the roadway and topography. He requested that the sign be allowed to be 32 square feet. He noted that the sign would not block any coastal views.

Mr. Zimmer responded to several questions from Commissioners. He explained that the existing structure is approximately 2,600 square feet with 2/3 of it used for living space. The tasting room will be 300 square feet. The land to the west will continue to be used for grazing of sheep. They are presently processing 2,500 cases and are requesting an expansion to 5,000 cases. He explained that no wine has been released which was processed utilizing grapes grown on the site. Mr. Zimmer discussed the difficulty in developing the vines in this climate and alternative pruning methods employed to reduce mold. Mr. Zimmer discussed their future plans for developing sparkling wines from grapes grown on site.

Mr. Zimmer explained that, because of the topography, very little of the structures will be seen from the Highway. He also explained that the structures will be sunk into the ground.

Mr. Zimmer discussed the importance of having the tasting room in order to make this a viable operation and he also discussed ground preparation work which must be done prior to planting additional vines. He stated that it is their intent to expand the vineyard, however, it cannot be done in the next year.

The public hearing was declared open.

Mr. Bud Kamb spoke in support of the application. He stated that he represents an adjacent land owner, Will Jackson, who has no problem with the existing or proposed operation.

Ms. Judith Vidaver spoke in opposition to the request. She stated that this was an experiment which has failed. This is not a commercially viable project. The grapes are not producing and are suffering extreme stress. She objected to a 50 foot buffer noting that a 100 foot buffer is usually required. She questioned whether there is adequate room for additional structures given the bluff setback. She recommended that an artistic rendering of the site be required so that the Commission can properly evaluate potential visual impacts. She stated that the existing structures block views to the ocean. She voiced concerns that the project could be growth inducing. She objected to a commercial retail development being allowed in this non-commercial area which could lead to a change in the character of the area. She stated that this is one of the most pristine undeveloped areas of the coastal zone. She also voiced concerns regarding potential truck traffic. Ms. Vidaver submitted written comments into the record.

Mr. Don Perry, representing the Smith/Perry families, supported the application and commented that it will provide for additional employment, increase in tax base and provides additional opportunities for tourists. He submitted written comments into the record.

Ms. Joan Curry objected to the project. She stated that they have had 12 years to make a go of the vineyard. She recommended that a producing vineyard be established prior to considering any expansion of the facility. The tasting room should be restricted to wines produced from grapes grown on site. She voiced concerns that this facility could be converted to an inn in the future. She also stated that the proposed sign is too large.

Rixanne Weheren, submitted two photographs into the record which were circulated to the Commission. She spoke in opposition to the proposed commercial processing plant. She had no objection to the growing of grapes on the property. This is not an appropriate location for retail sales and she noted that there are no other retail sales outlets within miles of this property. She voiced concerns with potential impact to scenic views. She supported the recommendation that there be a visual rendering or story poles to assess the visual impacts.

The public hearing was declared closed.

RECESS: 10:32 - 10:41 a.m.

Mr. Zimmer discussed research which has been conducted for grape growing in coastal areas and noted that there are grapes successfully growing in the Santa Maria area which is colder than this area. He discussed structures in the area which are taller than their proposed structures. He stated that less than 3% of all wineries do not truck in grapes. He commented that 5,000 cases would result in no more than 3 additional semi trucks coming to the site per year. In response to Commissioner Barth, Mr. Zimmer

discussed changes which they have implemented to improve the vines and decrease powdery mildew. The vines are extremely vigorous. He explained that there was a period of time where they did not have the financial resources to improve the vineyard.

Also in response to Commissioner Barth, Mr. Zimmer stated that they did not intend to install any additional landscaping and the lighting will be directed downward. Mr. Falleri felt that the natural conditions would be more appropriate in this area and additional landscaping would not decrease visual impacts of the project.

Commissioner Calvert commented that Pacific Star has been an excellent neighbor and the project is good for tourism and produces an added value for grapes produced in the inland area. However, she stated that wineries are not permitted in the agricultural zone on the coast. She stated that she would like to see half the grapes come from the site before any additional buildings are constructed. If the property were commercially zoned, she would have no problem with the project. Because of the zoning and because the grapes are not adequate to produce any volume of wine, she could not support the expansion. She recommended, however, if the Commission approves the project, that additional conditions regarding lighting be added.

Commissioner Hering voiced concerns with the commercial use of agricultural land in the coastal zone. She stated that she also has concerns with allowing a tasting room.

Commissioner Barth pointed out that agriculture is a priority use in the coastal zone. She stated that a lot of land was zoned agriculture in the coastal zone to control growth and protect views and is not truly agricultural land. She stated that the vineyard has been improved to the point where it really has potential. She noted that 300 square feet is a relatively small space for a tasting room and it will be limited to products of the winery. She did not believe the amount of wine produced on the site would generate significant increases in traffic, particularly compared to timber hauling which has occurred in this area for 100 years. She discussed commercial operations which have been conducted in the area and stated that there is no clear line between the commercial development and this area. She supported the smaller sign.

Commissioner Little spoke in support of the project and stated that it is compatible with the surrounding area.

Commissioner McCowen stated that he has similar problems as Commissioners Calvert and Hering. He commented that, at this time, the vineyard does not produce an adequate quantity of grapes to support the wine making operation. He recognized that there has been a commitment of financial resources, hard work, love and labor to produce the vineyard. Commissioner McCowen stated that he could not support expansion of the facility with no evidence that the vineyard significantly supports the wine making operation.

Mr. Zimmer requested that the application be continued so that absent Commissioners could vote on the project. The Commission briefly discussed Mr. Zimmer's request, however, given that the public hearing has been completed, decided to take action on the project.

Commissioner Barth moved, seconded by Commissioner Calvert, to deny #CDU 16-99 without prejudice.

Mr. Falleri clarified that denial without prejudice will allow the applicant to reapply for the same project within one year, however, the applicant will be required to pay full processing fees.

The motion failed on the following roll call vote (Note: see reconsideration of motion):

AYES: Calvert, Hering
NOES: Little, Barth, McCowen
ABSENT: Berry, Piper

After brief discussion, Commissioners Barth and McCowen indicated that they would like to reconsider their vote on the previous motion.

Upon motion by Commissioner Barth, seconded by Commissioner Calvert and carried by the following roll call vote, IT IS ORDERED that the Planning Commission reconsiders the motion to deny #CDU 16-99 without prejudice.

AYES: Barth, Calvert, Hering, McCowen
NOES: Little
ABSENT: Berry, Piper

The motion to deny #CDU 16-99 without prejudice carried by the following roll call vote:

AYES: Hering, Calvert, Barth, McCowen
NOES: Little
ABSENT: Berry, Piper

FOR COASTAL DEVELOPMENT USE PERMIT

#CDU 16-97
OCTOBER 21, 1997
PAGE PC-1

aw
be

SALLY OTTOSON
33000 HWY 1
FORT BRAGG, CA 95437

ng

ROBERT ZIMMER
33000 HWY 1
FORT BRAGG CA 95437

Entitlement to expand an existing winery operation to include an expanded storage area, office and wine tasting facility. Storage will be within an addition to the existing facility as well as a new, detached barn structure.

at

In the Coastal Zone, lying on the west side of Highway 1, approximately 9+- miles north of Fort Bragg, lying immediately north of Kibesillah Creek, at mile post marker 73.58; AP# 15-370-11.

of

ins

GE: 15 acres

ed

AG

NING: North and South: AG
East: RL
West: Ocean

e

er,

N: AG

S: Winery, residence and vineyard

LAND USES: North, East and South: Agriculture
West: Ocean

LOT SIZES: North: 7.5 acres
East: 148 acres
South: 7.5 acres
West: Ocean

i

i

L DISTRICT: 4

st

50 DATE: January 17, 2000

ED APPLICATIONS ON SITE OR SURROUNDING AREA: The Coastal Commission 1-88-19 for the development of a "winemaking barn with studio apartment" and a "test plot of object property in 1988. At the time the property was zoned A-1 (Unclassified) and no permit, ty issued consistency statement and a building permit, was required by the County. This Coastal it describes the project, at the time and in part, as follows:

posed project calls for the construction of a two story barn with studio apartment, septic system, and grape test plot area. The barn will be used for making and storing wine. It measures 40 by

Section 20.480.025(A) (Expansion or Reduction of Nonconforming Uses) states:

Existing legal nonconforming uses conforming with Section 20.480.010 may be expanded or reduced to a use of lesser intensity through the issuance of a Coastal Development Use Permit provided the following findings are made:

1. That it is not reasonably economically or physically feasible to make use of the property compatible with the applicable general plan designation; and
2. That the use is, and, after the expansion, will be compatible with adjacent land uses and that any increased adverse impacts on access or public facilities and services will be mitigated; and
3. That the site is physically separate from surrounding properties such that continued nonconforming use is appropriate in that location; and
4. The expansion is found consistent with all other applicable policies of the Coastal Element of the Mendocino County General Plan.

Finally Coastal Element Policy 3.2-4, in part, states:

Zoning regulations shall not discourage compatible activities that enhance the economic viability of an agricultural operation. These may include cottage industry, sale of farm products ... [and] ... shall be subject to a conditional use permit. Granting of the permit shall be subject to a conditional use permit. Granting of the permit shall require affirmation findings to be made on each of the following standards. The project shall:

- maximize protection of environmentally sensitive habitats;
- minimize construction of new roads and other facilities;
- maintain views from beaches, public trails, roads and views from public viewing areas, or other recreational areas;
- ensure adequacy of water, sewer, and other services;
- ensure preservation of the rural character of the site; and
- maximize preservation of prime agricultural soils;
- ensure existing compatibility by maintaining productivity of on site and adjacent agricultural lands.

Staff believes that the project would be found consistent with the applicable code and policy sections. However, in order to provide some additional nexus between the project and the on-site resource, staff would suggest that the applicant be required to plant, and maintain, more lands devoted to vineyard on-site. While staff recognizes that the vineyard will likely be low yielding, nonetheless, the agricultural portion of the operation needs to be the primary focus of the project, not just the more commercialized tasting facility. Recognizing that the vineyard may take years to ultimately develop, staff would suggest that the project be conditioned to require that a total planted area a minimum of 5 acres needs to be established and maintained with grape vines and supporting infrastructure.

In reviewing the Land Use Maps adopted as part of Coastal Element there is a proposed bluff top access trail depicted on property several properties to the north. This property is owned by Caltrans who has not considered development of this access at this time. As the subject property is zoned AG, per Coastal Element Policy 3.2-14, "...no vertical or lateral bluff top access shall be required at this time."

Transportation (Item 12B): The site takes access directly from Highway One. Caltrans has concluded that "...there will be no significant impacts to the State highway as a result." Caltrans does express a concern, however, that the proposed sign be located outside of the highway right of way, and that the road approach should be designed to meet Caltrans standards. Conditions Number A-4 and B-3 are provided to address these concerns.

On site parking will be provided by the new three-vehicle parking area on the ground floor of the new barn and the addition of a total of ten new on site parking spaces. This amount of parking will meet the code mandated standards. Ample area exists for the development of the required parking area (See Condition Number A-5).

Public Services (Item 13A): The California Department of Forestry and Fire Protection has reviewed the project and commented on the need to comply with appropriate addressing and defensible space standards. Compliance with Condition Number A-6 will address this concern.

Utilities (Item 15A): As noted above, the site is served by on site wells and septic systems. The site is within a Critical Water Resource area, as identified by the Coastal Ground Water Study. The applicant has stated that increased production will only require an increase of five percent in water use. The Division of Environmental Health, the County Department of Agriculture and the County Water Agency have reviewed the proposal and found that the increased production level requested will not significantly increase water demand due to the limited peak season use and the Coastal environment. The on site septic has been found adequate for the operation. No conditions are necessary to address these issues at this time.

Based on the above, no significant environmental impacts are anticipated which cannot be adequately mitigated, therefore, a Negative Declaration is recommended.

GENERAL PLAN CONSISTENCY RECOMMENDATION: The proposed project is consistent with applicable goals and policies of the General Plan.

RECOMMENDED MOTION:

Environmental Findings: The Planning Commission finds that no significant environmental impacts would result from the proposed project which can not be adequately mitigated through the conditions of approval, therefore, a Negative Declaration is adopted.

General Plan Consistency Finding: As discussed under pertinent sections of the staff report, the proposed project is consistent with applicable goals and policies of the General Plan as subject to the conditions being recommended by staff.

Department of Fish and Game Findings: Because this use permit would create additional density and intensity of land use and would contribute to the overall reduction in wildlife populations and habitat from a cumulative standpoint, the de minimis finding can not be made for this project. The project is, therefore, subject to the Fish and Game fee of \$1,275.00.

Coastal Development Permit Findings: The Planning Commission finds that the application and supporting documents and exhibits contain information and conditions sufficient to establish, as required by Section 20.532.095 of the Coastal Zoning Code, that:

1. The proposed development is in conformity with the certified local coastal program; and
2. The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities; and
3. The proposed development is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of the Coastal Zoning Code, and preserves the integrity of the zoning district; and
4. The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

5. The proposed development will not have any adverse impacts on any known archaeological or paleontological resource.
6. Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.
7. The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and the Coastal Element of the General Plan.
8. Environmentally Sensitive Habitat Areas.
 - a. The resource as identified will not be significantly degraded by the proposed development.
 - b. There is no feasible less environmentally damaging alternative.
 - c. All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.
9. The proposed use is compatible with the long-term protection of resource lands.
10. Agricultural Land Impact Findings.
 - a. The project maximizes protection of environmentally sensitive habitat areas;
 - b. The project minimizes construction of new roads and other facilities;
 - c. The project maintains views from beaches, public trails, roads and views from public viewing areas, or other recreational areas;
 - d. The project ensures the adequacy of water, waste water disposal and other services;
 - e. The project ensures the preservation of the rural character of the site;
 - f. The project maximizes preservation of prime agricultural soils;
 - g. The project ensures existing land use compatibility by maintaining productivity of on-site and adjacent agricultural lands.
11. Expansion of a non-conforming use findings:
 - a. That it is not reasonably economically or physically feasible to make use of the property compatible with the applicable general plan designation; and
 - b. That the use is, and, after the expansion, will be compatible with adjacent land uses and that any increased adverse impacts on access or public facilities and services will be mitigated; and
 - c. That the site is physically separate from surrounding properties such that continued nonconforming use is appropriate in that location; and
 - d. The expansion is found consistent with all other applicable policies of the Coastal Element of the Mendocino County General Plan.

Project Findings: The Planning Commission, making the above findings, approves #CDU 16-99 subject to the conditions of approval recommended by staff.

RECOMMENDED CONDITIONS:**A. Conditions which must be met prior to use and/or occupancy and for the duration of this permit:**

- ** 1. Development of future improvements shall comply with the construction and setback standards recommended within the Engineering Geologic Reconnaissance," by BACE Geotechnical, dated April 22, 1999 on file with the Department of Planning and Building Services.
2. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of \$1,275.00 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to November 5, 1999. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if project is approved) or returned to the payer (if project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void.
3. Prior to opening the tasting room to the public, the applicant shall plant additional vineyard, with supporting infrastructure, for a minimum total area of five (5) acres of grapes. Verification of compliance with this condition shall be submitted from the Mendocino County Department of Agriculture.
- ** 4. The applicant shall submit written verification from Caltrans that the road encroachment meets appropriate Caltrans standards for the intended use.
- ** 5. The applicant shall maintain a minimum of ten (10) on site parking spaces. Such spaces shall, at a minimum be surfaced with gravel.
- ** 6. The applicant shall comply with those recommendations in the California Department of Forestry letter of June 18, 1999 or other alternatives as acceptable to the Department of Forestry. Written verification shall be submitted from the Department of Forestry to the Department of Planning and Building Services that this condition has been met to the satisfaction of the Department of Forestry.

B. Conditions which must be complied with for the duration of this permit:

- ** 1. The applicant shall maintain a 50 foot buffer from the edge of the riparian vegetation along Kibesillah Creek as recommended in the Botanical Survey dated March 3, 1999, prepared by Gordon McBride.
- ** 2. All exterior lighting shall be shielded and downcast.
- ** 3. Only one sign, constructed of wood, and a maximum of sixteen (16) square feet may be permitted on site. This sign must be setback a minimum of 150 feet from the centerline of Highway One. The sign may not be illuminated from any source.
4. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20 of the Mendocino County Code unless modified by conditions of the use permit.

- 5. That this permit be subject to the securing of all necessary permits for the proposed development and eventual use from County, State and Federal agencies having jurisdiction. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.
- 6. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one (1) or more of the following grounds:
 - a. That such permit was obtained or extended by fraud.
 - b. That one or more of the conditions upon which such permit was granted have been violated.
 - c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety, or as to be a nuisance.

Any such revocation shall proceed as specified in Title 20 of the Mendocino County Code.

- 7. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.

9/15/99

 DATE



 FRANK LYNCH
 SUPERVISING PLANNER

Negative Declaration
 FL:DAW
 9/14/99

Appeal Fee - \$600.00
 Appeal Period - 10 days

** Indicates conditions relating to Environmental Considerations - deletion of these conditions may effect the issuance of a Negative Declaration.

REFERRAL AGENCIES	REFERRAL NOT RETURNED	REFERRAL RECEIVED "NO COMMENT"	COMMENTS RECEIVED
Planning - Ft Bragg	X		
Env. Health			X
Building Inspection - Ft Bragg	X		
Coastal Commission	X		
Ag Commissioner	X		
Sonoma State University			X
Arch Commission			X
Native Plant Society	X		
Caltrans			X
CDF	X		
Dept of Fish and Game	X		
RWQCB	X		
CHP			X

PACIFIC STAR WINERY

Handcrafted Red Wines from the Mendocino Coast

Applicant's Statement Amendment to Permit #1-88-19

Ladies and Gentlemen:

Please allow this letter to serve as clarification for my request to expand the non-conforming use of Coastal Permit #1-88-19.

In 1988, I was granted permission to establish an experimental vineyard and winemaking barn with living quarters on the 15-acre subject parcel. Since then I have lived on the property and worked to create suitable conditions for a producing vineyard in a climate considered cool for viticulture. Through innovative pruning and trellising experiments, and the investment of considerable effort, *the experiment worked*: I have realized my dream of a productive vineyard estate winery on the Mendocino Coast. This application allows expansion of my current vineyard and winemaking facilities to legitimize and lend permanence to this last decade's experiments in light of their success. With the scale of the existing operations, sustainability is elusive, and the proposed expansion will overcome the current size limitations. Pacific Star Winery would still be *among the smallest one percent of family-owned commercial wineries in California*.

I recognize the importance of my responsibility of good stewardship of the environment. My great-grandfather, Christian Ottoson, was one of the first to homestead Comptche land in 1867. My 9 year old son, Jonah, represents the fifth generation of my family living on the Mendocino Coast. The same appreciation for this environment that I have instilled in him is present in my business efforts.

The agricultural purpose to which this project is dedicated is undertaken with care toward the unique and delicate ecosystem in which it is located, often at the cost of commercial success. This effort has always relied heavily on human rather than machine labor and will continue to do so. I anticipate creating between 4 and 8 full-time jobs for local residents.

The natural contours of the property allow both the extension of the original building and the new barn to exist in such a way as to minimize interference with the scenic corridor between Highway 1 and the coast. The vineyard enhances, rather than blocks the view shed and provides habitat for coastal birds and small mammals. The business serves as a learning vehicle and example of a small family business operating in harmony with the environment, rather than at odds with the natural surroundings. Furthermore, as Pacific Star is an agriculturally based business, my plans are consistent with the high priority given agricultural projects in this area.

My goal of achieving self-sufficiency for my business will be achieved without limiting public access to the coastline or encroachment upon riparian zones.

Traditionally, Mendocino County communities have welcomed the family vintner and their vineyards. Please acknowledge this trust and make this welcome permanent by granting my family the opportunity to continue this tradition into the next century.

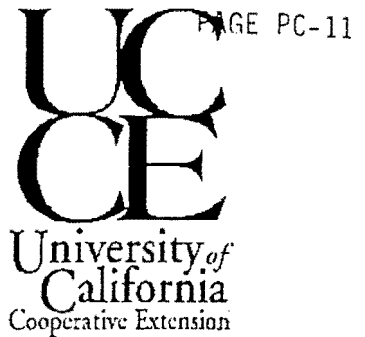
Cordially,



Sally Ottoson

33000 NORTH HIGHWAY 1; FT. BRAGG, CA 95437

UNIVERSITY OF CALIFORNIA
 COOPERATIVE EXTENSION
 Mendocino County



Agriculture Center/Courthouse • 579 Low Gap Road • Ukiah, CA 95482
 (707) 463-4495 • FAX (707) 463-4477 • cemendocino@ucdavis.edu

April 27, 1999

Dear Interested Persons:

I am writing in reference to Ms. Sally Ottoson's application to expand her non-conforming use permit for Pacific Star Winery, located at 33000 North Highway 1 near Ft. Bragg. This vineyard is unique in that it is the western most vineyard in Continental North America. After 9 years of experimentation, the Pacific Star Winery staff has developed a production system that results in mature Pinot noir fruit for red still wine production. The site offers many challenges, and true to European traditions, will produce vintage years some seasons, and other years, maturing fruit will be difficult. Wine makers and wine aficionados will tell you that many varietals reach greatness on the edge of their zone of adaptability. Presently, there is great interest in planting Pinot noir in the cooler coastal areas, and Pacific Star is certainly leading this trend of new explorations in winegrowing in California.

I also support permitting a tasting room at the winery. In a study completed with USDA Option 9 funds (Economic Diversification of Timber Dependent Communities), our consultants found that there has been a significant shift in Mendocino County's economy away from natural resource extractive industries (timber and fishing) to agriculture and tourism. The Mendocino County Board of Supervisors has gone on record as supporting promotional efforts that will enhance unused capacity of these industries to grow our economy. To show that they are serious, the Board of Supervisors have invested nearly \$300,000 this past season as their share in the creation of the Mendocino County Promotional Alliance. This public/private partnership is actively working to promote our county as a food and wine region, and tourist destination. Pacific Star Winery serves to enhance the options of visitors staying on the coast. Additionally, Pacific Star purchases fruit grown in our county, hires local people to make wine, and pays taxes to Mendocino County. They also buy materials and services from people in our community. It is clear that local businesses have a strong "ripple effect" in our county's economy, so I am supportive of any that intelligently and tastefully position their commercial activities. Pacific Star is in a position to do this, and has demonstrated their abilities to date as a viable winegrowing operation. Businesses like this keep our coast from turning into a "drive by back drop" which can happen all too easily if all commercial activities are regulated out of existence. Instead, we have the possibility of being economically sustainable while preserving and enhancing the agricultural traditions that maintain

U.S. Department of Agriculture, University of California and County of Mendocino Cooperating

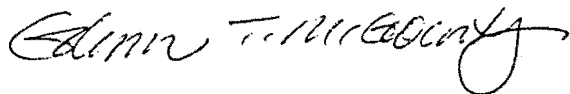
The University of California, in accordance with applicable Federal and State law and University policy, does not discriminate on the basis of race, color, national origin, religion, sex, disability, age, medical condition (cancer-related), ancestry, marital status, citizenship, sexual orientation, or status as a Vietnam-era veteran or special disabled veteran. Inquiries regarding the University's nondiscrimination policies may be directed to the Affirmative Action Director, University of California, Agriculture and Natural Resources, 1111 Franklin, 6th floor, Oakland, CA 94607-5200 (510)987-0096.



attractive and productive landscapes. Giving Pacific Star Winery a direct outlet to consumers makes their operation much more financially viable, and preserves commercial agriculture in the coastal zone.

I encourage you to look upon their permitting request favorably. Do not hesitate to call if you have further questions.

Best regards:



Glenn T. McGourty, Viticulture and Plant Science Advisor

U.S. Department of Agriculture, University of California and County of Mendocino Cooperating

The University of California, in accordance with applicable Federal and State law and University policy, does not discriminate on the basis of race, color, national origin, religion, sex, disability, age, medical condition (cancer-related), ancestry, marital status, citizenship, sexual orientation, or status as a Vietnam-era veteran or special disabled veteran. Inquiries regarding the University's nondiscrimination policies may be directed to the Affirmative Action Director, University of California, Agriculture and Natural Resources, 1111 Franklin, 6th floor, Oakland, CA 94607-5200. (510)987-0096.



CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA

1 HOWARD STREET, 4TH FLOOR
SAN FRANCISCO, CA 94105
(415) 543-8555

TU-90



EXHIBIT NO.	9
APPLICATION NO.	A-1-MEN-00-02
OTTOSON	
STAFF REPORT FOR ORIGINAL PROJECT	

FILED Feb. 25, 1988
 49th DAY: April 15, 1988
 180th DAY: Aug. 26, 1988
 Staff: James J. Muth
 Staff Report: March 1, 1988
 Hearing Date: May 10, 1988
 Document No.: 2683P /

STAFF REPORT: REGULAR CALENDAR

PROJECT DESCRIPTION

APPLICANT: Jake & Sally Goldenberg

PERMIT NO. 1-88-19

PROJECT LOCATION: 33000 Highway One, north of Kibesillah Creek, Westport area, Mendocino County, APN: 015-370-11

PROJECT DESCRIPTION: Construction of a winemaking barn with studio apartment, well, septic system, driveway and test plot for grapes, and 5,000 gallon water storage tank

LOT AREA 15 acres ZONING A-1

BLDG. COVERAGE 2,600 sq.ft. (LCP) PLAN DESIGNATION AG-60

PAVEMENT COVERAGE 12,000 sq.ft. PROJECT DENSITY 1 unit/15 acres

LANDSCAPE COVERAGE 1,000 sq.ft. HEIGHT ABV. FIN. GRADE 30'-6"

LOCAL APPROVALS RECEIVED: Well and septic permits, LCP consistency review state highway encroachment permit

Substantive File Documents: Mendocino County Coastal Land Use Plan

STAFF RECOMMENDATION

I. The Staff recommends that the Commission adopt the following Resolution:

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, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, 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. RECOMMENDED CONDITIONS

A. Standard Conditions

See attachment.

B. Special Conditions

1. Possible Review of Driveway Access Grading Plans

If the applicant decides to locate his driveway access from Highway as shown on the plot plan in Exhibit #3, he shall submit a set of grading plans to the Executive Director prior to project commencement for his review and approval of the grading and construction for the driveway access. The grading plans shall show or indicate, all of the following:

- a. the nature and amount of required fill material;
- b. the location of the driveway entrance, Highway One pavement and right-of-way line, and the entire filled footprint area;
- c. existing and proposed contour elevations at one foot contour intervals;
- d. final slope percentage figures for the driveway entrance and adjacent sideslopes;
- e. the location of any other structures such as culverts, fences, poles, retaining walls, etc.;
- f. a description as to how and when the disturbed/graded areas will be stabilized to prevent soil erosion and;
- g. estimated clear line of sight distance for both directions when a vehicle leaves the driveway entrance onto Highway One.

Alternatively, should the applicant decide to relocate his driveway entrance in a location other than as shown on the plot plan, Exhibit #3, he shall first apply for an amendment to this permit prior to commencement of grading and construction for a relocated driveway access.

2. Future Development

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a document in a form and content acceptable to the Executive Director, stating that the subject permit is only for the development described in the coastal development permit number 1-88-19; and that any future additions or other development as defined in Public Resources Code Section 30106 will require an amendment to Permit No. 1-88-19 or will require an additional coastal development permit from the California Coastal Commission or from its successor agency. The document shall be recorded as a covenant running with the land binding all successors and assigns in interest to the subject property.

III. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. Project Description and Location

The proposed project calls for the construction of a two story barn with studio apartment, septic system, driveway, 5,000 gallon water storage tank and grape test plot area. There is an existing well on the property which was installed in 1985 without coastal development permit approval. Local permit approval for the well has now been received and the well has been incorporated into the project description for this permit approval. The barn will be used for making and storing wine. It measures 40 by 60 feet and is 30 feet, 6 inches at this highest point above finished grade. Approximately 2600 sq.ft. of floor space exists on each level with half of the second story floor space used for a studio apartment.

It is the intent of the applicants to eventually plant about 7 of their 15 acres in grapes to produce wine. At the present time, however, only a one-half acre test plot area with 100 vines is proposed. The purpose of the grape test plot is to first determine which grape varieties are most suitable for this site's soils and climatic conditions.

The property is located about 4 miles south of Westport and is situated in a largely undeveloped, highly scenic area between Highway 1 and the sea. The southern boundary of the property is formed by the centerline of Kibesillah Creek. See locational Exhibits #1 and #2 and the Mendocino Land Use Plan portions of maps 8 and 9, on Exhibit #3.

B. Public Access

Coastal Act Section 30210 provides as follows:

"In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse."

Coastal Act Section 30212(a) provides generally that in new shoreline development projects, access to the shoreline and along the coast shall be provided, except in specified circumstances, where:

- "(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,
- (2) adequate access exists nearby, or,
- (3) agriculture would be adversely affected. Dedicated accessway shall

not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway."

Exhibit #3 shows that there is an existing vertical and lateral public accessway one-half mile to the north through a California Department of Transportation (CALTRANS) scenic easement adjacent to a road turnout. Exhibit #3 also shows proposed lateral access closer to the property, both to the north and to the south.

The Commission therefore finds that the adequate access exists nearby. In addition, the Commission finds that the proposed development will not result in any adverse impacts, either individual or cumulative, on existing or proposed public access. The proposed development is therefore consistent with the public access policies of the Coastal Act.

C. Visual Resources

The property is located within a "highly scenic area" of Mendocino County. This is noted on Exhibit #3 of the County's land use plan maps as well as in policy 3.5-3 of the land use plan.

Section 30251 of the Coastal Act states:

"The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting."

In addition, land use policy 3.5-3 limits new development within designated highly scenic areas to one-story (above natural grade) unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. Land use policy 3.5-4 covers the siting of structures on hillsides with a minimum amount of terrain alteration. Land use policy 3.5-9 requires that the location of all new access roads and driveways in rural areas be reviewed prior to any grading work to ensure safe location and minimum visual disturbance and that direct access to Highway One shall not be permitted where it is feasible to combine access points for two or more parcels.

It is the barn and driveway elements of the proposed development which are reviewed here under these visual resource policies. The water storage tank should also be reviewed if above ground as shown in Exhibit #6. The public view from Highway One across the property is not obstructed by trees and consists of and open grass covered terrain.

As to the barn, the plot plan in Exhibit #4 shows that the barn will be sited 800+ feet downslope from Highway One. Section A-A on Exhibit #4 shows that the barn snuggles into the hillside and does not have a high profile. The long axis of the barn has been turned to be perpendicular to the Highway to reduce its appearance. Exhibit #5 shows the four profiles of the barn. The East profile faces the Highway. The use of a retaining wall gives the barn a one-story appearance. (Slides are available of the visual aspects of the site and the new development.)

The Commission finds that the stone facing on the East profile, redwood battenboard on the other profiles, and shingle roofing materials as visually compatible with the color harmonies of the surrounding landscape; that the appearance of the structure is in keeping with its agricultural land use designation, that the siting of the barn minimizes alternation of the natural landforms; and that the one-story appearance in conjunction with a deep setback intrudes only very slightly into the public viewshed as seen from Highway One. Therefore, the Commission finds that the barn is consistent with Section 30251 of the Coastal Act.

As to the driveway access as shown on Exhibit #4, a sizable amount of fill material will be necessary to raise the driveway entrance to the existing level of the highway to ensure clear line of sights and safe access and egress. There is a drop of about 10 feet from the highway into the site at this point and the land continues to fall away from the Highway towards the ocean. Since no grading plans have been submitted with the project proposal, Commission staff is unable to evaluate its impacts. On the one hand, the minimum amount of fill necessary to ensure safe access could result in steep, artificial sides slopes which do not blend well into the existing landscape. On the other hand, a more extensive amount of fill covering a larger area and blending better into the landscape, could reduce the amount of agricultural land.

The applicant does have an encroachment permit from CALTRANS for a driveway access at this location. However, the applicant has expressed an interest in relocating his driveway further to the north because it would require less fill and be less expensive. This relocation would require a new encroachment permit from CALTRANS and an agreement from the adjacent property owners if shared access is anticipated. If feasible, relocation of the driveway further to the north would be a more desirable alternative to the present location as it would reduce impacts on visual, and possibly agricultural land resources.

Therefore, the Commission finds that special condition #1, requiring the submission of grading plans to the Executive Director for his review and approval prior to commencement of grading and construction of the driveway as shown on the plot plan in Exhibit #4, is a necessary safeguard to minimize adverse impacts to visual, and possibly agricultural, resources. Alternatively, the applicant can apply for an amendment to this permit should

relocation of the driveway access be feasible. As conditioned, the Commission finds the driveway access element of the proposed project consistent with Section 30251 of the Coastal Act.

D. Future Development

Commission staff has three coastal resource planning concerns about the future development of this property, particularly if this vineyard and winery operation is to be successful. (See Exhibit #7, letter by Charles Hossom, viticulturist.) There is a two fold purpose behind these expressed concerns; namely, (1) to place the applicant and County on notice now so that these concerns may be addressed ahead of time and (2) to clearly identify and distinguish this present development proposal from any future development proposals.

The first concern relates to water. The existing well has a discharge rate of 2 1/2 gallons per minute according to the well drillers log. This well should be adequate to serve the domestic uses in this present development proposal - principally the studio apartment and the one-half acre, grape test plot area. However, a full scale vineyard and winery operation should be considered as a potential major water user. The applicant is in the best position to estimate the water demand for his operations and it is likely that a full scale vineyard and winery operation will require additional water sources. To this end, the applicant will be required to obtain coastal development permit approval for additional wells, withdrawals from Kibesillah Creek, or infrastructure (such as water holding tanks). As indicated in Mendocino County land use Policy 3.8-9 or under the Coastal Act, the applicant will be required to show proof of an adequate water supply for his intended vineyard and winery operations along with evidence that his water use will not adversely affect contiguous or surrounding water sources/supplies, nearby riparian vegetation, or anadromous fish in Kibesillah Creek. Proof of an adequate water supply may entail pump tests from existing or proposed wells to determine their safe yield prior to the planting of a full scale vineyard.

The second concern relates to the trend of increased intensity of use and commercialization of vineyard and winery operations. Disposal of waste water and grape skins, along with certain agricultural spraying practices can create environmental problems. Further, based on the Napa Valley experience, increased commercialization of wineries via public tours and related retail sales, blurs the line between agricultural and commercial uses. The existing Mendocino County land use plan and the proposed zoning ordinances do not have sufficient clarity and standards by which to draw the line between these two uses.

The third concern relates to second dwelling units. At the present time, the Mendocino County Land Use Plan does not allow for two units on one lot in this area. However, if the studio apartment were eliminated or converted to another permissible use, then a single family home could be considered at a future time.

In conclusion, because these future development concerns could be a logical extension from the present development proposal, the Commission finds that special condition #2, which clearly identifies and describes this present development proposal under this permit, is a prudent and necessary safeguard.

E. Special Violation Finding

Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of the permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a Coastal permit.

F. Mendocino County LUP/Prejudice to LCP

Section 30604 of the Coastal Act mandates permit issuance if the project is consistent with Chapter 3 of the Coastal Act. Approval of the project is consistent with the public access, visual resource, and development policies of the Coastal Act as found herein and thus will not prejudice local government's ability to implement a certifiable LCP.

G. California Environmental Quality Act

The Coastal Commission's permit process has been designated as the functional equivalent of C.E.Q.A.; thus, in reviewing permit applications, the Commission must consider the provisions of C.E.Q.A. One of the central C.E.Q.A. provisions is the consideration of less environmentally damaging alternatives and the consideration of proper mitigation measures to lessen significant environmental impacts. The Commission finds that the proposed project, as conditioned, is consistent with these C.E.Q.A. provisions.

JJM/mae

STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgement. The permit is not valid and construction 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 construction has commenced, the permit will expire two years from the date on which the Commission voted on the application. Construction shall be pursued in a diligent manner and completed in a reasonable 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 construction must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director of 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.

March 3, 1999

Mr. Frank Lynch
Mendocino County
Department of Planning and Building Services
501 Low Gap Road, Ukiah, CA 95482

RE: PROPOSED COASTAL DEVELOPMENT PERMIT FOR PACIFIC STAR WINERY
AT 33000 N. HIGHWAY 1, FORT BRAGG (AP #015-370-11 OTTOSON).

Dear Mr. Lynch:

This letter addresses your concerns about the riparian plant community along Kibesillah Creek in the vicinity of Pacific Star Winery in relation to the proposed Coastal Development Permit.

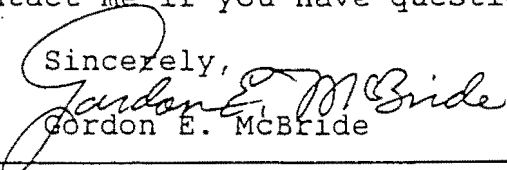
I visited the site on March 2, 1999. The riparian plant community along Kibesillah Creek is well developed and healthy. It is dominated by an overstory of Willow (Salix sp.). Understory vegetation includes Blackberry (Rubus vitifolius), Nettle (Urtica dioica), Sword Fern (Polystichum munitum), Bracken Fern (Pteridium aquilinum), Cow Parsnip (Heracleum lanatum), Wild Cucumber (Marah oreganus), Horsetail (Equisetum telmateia) and associated plant species.

The map I was supplied on my visit was the initial plot plan for the site, dated 11-23-87. It appears, from the information on that map, that a botanical survey of the site has been carried out, but the name of the botanist is not available. Apparently, as a part of that botanical survey, the riparian vegetation along Kibesillah Creek was mapped and a 50 foot buffer measured from the edge of the riparian vegetation was established.

The extent of the riparian vegetation along Kibesillah Creek does not appear to have changed from what is shown on the attached map/plot plan. Riparian vegetation associated with coastal watersheds, in the absence of disturbance, is generally restricted to ecological conditions associated with flood planes of those watersheds. In other words it does not change its boundaries significantly over time unless some thing disturbs the habitat or the riparian vegetation itself. This riparian community has been well protected - to the extent that the owner has fenced the area. I see no reason to go the the expense and time to reflag and resurvey the edge of the riparian vegetation. I also see no reason to recommend any change to the existing 50 foot buffer, as shown on the associated map.

Please do not hesitate to contact me if you have questions.

Sincerely,


Gordon E. McBride



BACE Geotechnical
A Division of Brunsing Associates, Inc.

EXHIBIT NO.	11
APPLICATION NO.	A-1-MEN-00-02
	OTTOSON
	GEOTECHNICAL REPORT

April 22, 1999

Ms. Sally Ottoson
Pacific Star Winery
33000 North Highway One
Fort Bragg, CA 95437

RE: Engineering Geologic Reconnaissance, Proposed Barn and Tasting Room, Pacific Star Winery, 33000 North Highway One, Mendocino County, California

Dear Ms. Ottoson:

This letter presents the results of our Engineering Geologic Reconnaissance for the proposed additions to the Pacific Star Winery, 33000 North Highway One, Mendocino County, California. The site is located on an ocean bluff, approximately three miles south of Westport.

According to the undated Plot Plan, provided to us by Robert Zimmer, the proposed additions will consist of a tasting room and a barn. The barn will be located approximately 100 feet southeast of the existing winery building, and the tasting room will be attached to the west-southwest side of the existing winery building. We understand that the barn will be for barrel storage, as well as a three-car garage.

The purpose of our reconnaissance was to address the issue of nearby bluff stability (retreat rate), as requested in a letter, dated December 19, 1996, from Mr. Frank Lynch, Supervising Planner, County of Mendocino Department of Planning and Building Services. The scope of our services as outlined in our Service Agreement, dated March 19, 1999, consisted of researching published geologic maps, studying aerial photographs, geologic reconnaissance, consultation, and the preparation of this letter.

Reconnaissance

Our undersigned, Principal Engineering Geologist, met with Mr. Robert Zimmer and performed a reconnaissance of the site on March 20, 1999. As part of our reconnaissance, we reviewed the following published geologic maps:

- Ukiah Sheet, 1960, Geologic Map Series of California, California Division of Mines and Geology (CDMG);

- Geology And Geomorphic Features Related to Landsliding, Inglenook 7.5-Minute Quadrangle, 1983, Open File Report 83-31, CDMG.

In addition, we studied aerial photographs, dated 1964 and 1981, enlarged to a scale of one-inch equals approximately 200 feet. We compared the bluff line in the photographs with what is visible today, in order to estimate the bluff retreat rate during the last 35 years.

Site Conditions

The winery property is located on two marine terraces on the southwest side of Highway One. The upper terrace slopes gently to the southwest at a gradient of approximately 15 horizontal to one vertical (15H:1V), from approximate elevation 120 feet near Highway One, to approximate elevation 75 feet in the existing winery building vicinity. The lower terrace level, at approximate elevation 40 to 60 feet, is on the headlands southwest of the winery building. The existing leach field is located on this lower terrace. Other property improvements consist of water wells and storage tanks, gravelled driveways, and a vineyard in the upper terrace portion of the property near Highway One.

The west and southwest sides of the property consist of headlands bordered by steep ocean bluffs. Ocean inlets have incised the headlands. Most of the inlets are open to the northwest with two inlets open to the south into the mouth of Kibesillah Creek. The canyon of Kibesillah Creek forms the southerly property boundary.

One of the ocean inlets trends north, then northwest at the mouth of Kibesillah Creek. The planned barn is to be on the terrace edge above the canyon of Kibesillah Creek, just northeast of this inlet. The inlet bluffs are approximately 60 feet high. The lower approximately 35 feet of the inlet bluffs are near vertical with several feet of over-hang in places; the upper, approximately 25 feet of the inlet bluff has a slope gradient of about 1/4H:1V. Several small sea caves, approximately 10 to 15 feet wide, by about 10 feet high, appear to reach about 10 to 20 feet into the bluff toe.



The tasting room addition onto the main winery building is in the flat, "cut" portion of the graded pad that surrounds the winery building. The proposed barn site is on the downhill side of a gravel driveway. The barn area is currently being used for storage of pallets, miscellaneous equipment, and piles of gravel. Mounded topography on the downhill side of this area suggests that fill material was placed here, likely when the driveway was graded. The proposed barn site slopes down at a moderately steep slope gradient, approximately 3H:1V, toward the top of the canyon side. The canyon side then steepens to a slope gradient of about 1-1/2H:1V down to the channel of Kibesillah Creek.

Site vegetation consists of grass and weeds on the terrace surrounding the winery facility. The Kibesillah Creek canyon contains a dense growth of brush and small trees. There are two small pine trees on the downhill side of the proposed barn site. The ocean bluffs are mostly bare rock, except for the upper, five to twenty-five feet that have a sparse to moderate cover of weeds and brush.

No surface water was observed at the site, except for a moderate flow in Kibesillah Creek. Minor ground-water seepage was observed within the lower bluffs.

Site Geology

The Mendocino County coastal area, east of the San Andreas Fault, is comprised of sedimentary rocks of the Tertiary-Cretaceous Period, coastal belt of the Franciscan Complex. The Franciscan rocks exposed within the lower half to two-thirds of the property bluffs consist of dark gray sandstone with some shale. These rocks are occasionally fractured, hard to very hard, and little weathered. The lower Franciscan rocks are poorly bedded, with near vertical joints.

The rocks within the upper, approximately one-third of the bluffs, and within a cut bank on the upslope side of the winery building, consist of brown sandstone, shale, and siltstone. These rocks are closely to intensely fractured, friable to moderate in hardness, and moderately to deeply weathered. Although no definite rock bedding was observed, the primary, northwest orientation of the inlets suggests that the regional bedding and/or jointing orientations have a northwest strike, along which erosion has formed the inlets. Some of the inlets may also be due to erosion along old, inactive faults. The inlet southwest of the



proposed barn site has formed along the strike of a northwest trending fault that has a steep to very steep dip, about 50 to 80 degrees from horizontal, toward the northeast.

Young Pleistocene terrace deposits overlie the bedrock on the lower terrace, southwest of the existing winery building. As exposed on the upper bluffs, these deposits consist of poorly consolidated silty sand and sandy silt, with some rounded gravels. The existing winery building is located between the upper and lower terraces. Therefore, terrace deposits are absent from the winery building vicinity and possibly the proposed barn site as well. Older terrace deposits extend from northeast of the winery building up to the highway vicinity. These older terrace deposits typically consist of poorly to moderately consolidated sand, silt, and gravel with some clay.

Topsoils, approximately one to three feet in thickness, overlie the terrace deposits, and/or the bedrock, at the site. The topsoils generally consist of dark gray-brown sandy silt-silty sand, with occasional gravel. The topsoils are typically porous and weak, but appear relatively low in expansion potential.

The only landslides observed in the proposed barn vicinity were on the northeast side and at the end of the inlet bluff, southwest of the barn area. The landslide on the northeast end (closest to the proposed barn site) consists of a slough area approximately 40 feet wide by about 30 feet high. The landslide at the northwest end of the inlet consists of a slough area approximately 30 feet wide by about 10 feet high. The topsoil layers at the top of the slough areas are being held together by grass roots. The northeast slough area has lost (dropped away and has been carried off by the ocean) about two to three feet of deeply weathered bedrock materials. The northwest slough area has lost about one to two feet of weak, terrace deposits. Other landslide areas on the property bluffs may exist, but are outside the area of influence for the barn or tasting room.

No evidence of active faulting was observed at the property. The two published references indicate that an inferred fault passing through, and possibly offsetting, Pleistocene terrace deposits. Such an offset would indicate that the fault is potentially active. A concealed trace of this fault is shown on these published maps parallel to, and just downslope of the highway. No surficial evidence of this fault was observed during our site reconnaissance. The active San Andreas Fault is located offshore, approximately nine miles southwest of the site.



Conclusions

Despite the inherent danger associated with ocean bluff property development, the proposed winery additions appear to be a reasonable risk. The lower bluffs are comprised of hard rock that is generally resistant to wave erosion. Wave energy is significantly reduced by the time the waves have passed the offshore rocks turned and entered the inlet. Our review of the 1964 and 1981 aerial photograph enlargements, compared with what is visible now, show no major changes at the proposed barn site or within the adjacent inlet configuration. The local bluff retreat rate, due to wave erosion and/or landsliding within the upper bluffs, appears relatively small, probably four to five inches per year as an average (locally, that could be as much as several feet during one occurrence).

Based upon a retreat rate of five inches per year, the bluff could erode back a total of 31-1/4 feet within a period of 75 years (considered to be the economic lifespan of a house by the California Coastal Commission). Considering the geologic conditions of the bluff, including the bluff height, slope gradient, and the apparent retreat rate, a building setback from the bluff edge of 31-1/4 feet times a factor of safety of two, rounded off to 65 feet, should be adequate.

The proposed barn area is underlain by varying thicknesses of weak native and fills soils. Structures and slabs founded upon weak soils could undergo damaging, differential settlement. Extending all structure foundations well into firm soil/rock beneath the weak soils can mitigate this condition. Alternatively, the weak native and fill soils could be excavated and replaced as engineered fill (observed and tested by BACE), and the structures supported on the engineered fill.

Due to the proximity of the active, San Andreas Fault, there is a probability of strong seismic shaking during the lifetime of the proposed structures. Generally, wood-framed structures founded in firm soil/rock, and designed in accordance with current building codes, are well suited to resist the effects of ground shaking. With foundations deepened to firm soil/rock, there is little potential for distress from seismically-induced liquefaction.



Additional Services

BACE should review and provide consultation during preparation of grading and building plans. Depending upon the structure type and final location, additional evaluation (possibly including subsurface exploration) may be required to provide specific foundation design parameters, and, as appropriate, detailed recommendations for site grading, support of concrete slabs, and site drainage. Collected drainage waters should be discharged away from the bluff edges and into vegetated areas on the lower slopes of Kibessillah Creek channel.

During construction, BACE should observe the structure foundation excavations while the excavation operations are being performed. Fill placement and compaction, if any, should also be observed and tested by BACE. Our reviews would allow us to verify conformance of the work to the project guidelines (including bluff setbacks), determine that soil/rock conditions are as anticipated, and to modify our recommendations, if necessary.

Limitations

This engineering geologic reconnaissance was performed in accordance with the usual and current standards of the profession, as they relate to this, and similar localities. No other warranty, expressed or implied, is provided as to the conclusions and professional advice presented in this report. Our conclusions are based upon reasonable geologic and engineering interpretation of available data.

The observations made are considered to be representative of the site; however, soil and geologic conditions may vary significantly between man-made excavations or natural exposures. As in most projects, conditions revealed during construction excavation may be at variance with preliminary findings. If this occurs, the changed conditions must be evaluated by BACE, and revised recommendations be provided as required.

Changes in the conditions of a site can occur with the passage of time, whether they are due to natural events or to human activities on this, or adjacent sites. In addition, changes in applicable or appropriate codes and standards may occur, whether they result from legislation or the broadening of knowledge. Accordingly, this report may become invalidated wholly or partially by changes outside of our control. Therefore, this report is subject to review and revision as changed conditions are identified.

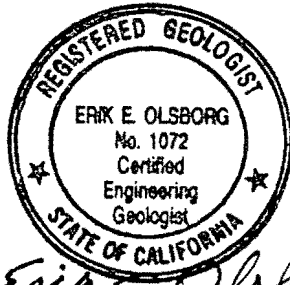


Ms. Ottoson
April 22, 1999
Page Seven

11340.1

The conclusions and recommendations contained in this report are based on certain specific project information regarding type of construction and building location, which has been made available to us. If any conceptual changes are undertaken during final project design, we should be allowed to review them in light of this report to determine if our recommendations are still applicable.

Respectfully submitted,



exp 2/28/99

Erik E. Olsborg

Erik E. Olsborg
Engineering Geologist - 1072

EEO/PRD/mab

4 copies submitted



PACIFIC STAR

Red Wines handcrafted on the Mendocino Coast

February 9, 2000

Mr. Eric Oppenheimer
Mr. Bob Merrill
Coastal Planners, California Coastal Commission
701 E Street
Eureka, CA 95501

EXHIBIT NO.	12
APPLICATION NO.	A-1-MEN-00-02
OTTOSON	
APPLICANT'S CORRESPONDENCE	

Re: Mary Walsh Appeal of Application A-1-MEN-00-002, Pacific Star Winery

I am requesting rejection of the Mary Walsh Appeal at the staff level because the appeal is not based on Substantial Issue, but instead, unsubstantiated opinions and distortion of facts. The many consultants, Mendocino County Planning Staff in their report, and the Mendocino County Board of Supervisors have carefully addressed all of the issues she raises. She has not visited the site nor did she attend the Supervisor's Public Hearing on December 13, 1999 designed specifically to give the public input and participate in discussion with all parties present to address concerns. The Supervisor's unanimous vote reflects the thorough and thoughtful attention for design this project has received.

Our specific response to the issues once again raised by this appeal:

Issue 1.: Visual Resources:

Mary Walsh Appeal:

"The proposed 28' high barn/winery will obstruct public views from both the west and north from Highway One."

The Facts:

This is an inaccurate statement. The record shows that only one story, or 17 feet, will be within the public view at over 900 feet away at the closest point to Highway 1, to the east of the projected building. The western view is available only by boat, and the north view allows only the peak of the roof to show.

This information was readily available to Ms. Walsh and is in the public file.

See Illustration A - Photos of proposed building from all directions

Mendocino Co. Dept. of Planning and Building, Staff Report:

Ref: Page PC-1

OTHER RELATED APPLICATIONS ON SITE OR SURROUNDING AREA:

In 1988...The Coastal commission approved permit #1-88-19 for the development of a winemaking barn with studio apartment...it measures 40 by 60 feet and is 30 feet, 6 inches at its point above finished grade.

Ref: Page PC-2

PROJECT DESCRIPTION:

The applicant proposes to expand an existing winery facility... Existing on the property is a two-story winery/residence structure...the upper story is, for the most part, the only portion of the structure visible from Highway One, as the lower story is obscured due to the cut slope on which the structure is located. Additionally, the applicant proposes to build a detached two-story barn structure... the lower floor of this structure will also be obscured by the cut slope.

Approximately one-third of the Westerly portion of the property lies upon a lower terrace sloping toward the Southwest...the existing winery/residence, as well as the proposed barn, are located at the easterly edge of this lower area, thereby concealing the actual height of the structures.

Ref: Page PC-3

AESTHETICS:

The two-story (28-foot-tall) barn structure will be screened by the cut slope... The highly scenic criteria of the Coastal Element would otherwise limit new construction to a maximum of 18 feet in height, Mendocino County Code Section 20.356.040 (Building Height of AG District) states that building heights of up to 28 feet may be established if "...an increase in height would not affect public views to the ocean or be out of character with surrounding structures."

Mary Walsh Appeal:

"The Planning commission unanimously denied the application, and the Board of Supervisors overturned its Commission without ever visiting the site."

The Facts:

As the record shows, and as Ms. Walsh knows because she was present, this is untrue.

The vote was taken several times with confusion between the Commissioners as to what the intent of each member was. The final vote was 4 -1, denial without prejudice, with two members absent. Commissioner Little spoke to the fact that the majority of the Commissioners seem to misunderstand that they were being asked to vote on the expansion of a legal non-conforming use permit rather than a new winery development.

Mendocino County Planning Staff Project Coordinator, Frank Lynch, Planning Commissioner Nancy Barth, and the 4th District Supervisor, Patty Campbell have all visited the site.

Issue 2.: Signage:

Mary Walsh Appeal:

"The proposed 32 foot square sign would stand alone in the middle of a 15 acre parcel, 650' from the building, with no height limit. This would seem to violate the scenic area designation."

The Facts:

Professional computer illustrations depicting the sign's low impact were introduced at the Public Hearing on Dec.13, 1999. The Board of Supervisors approved our request for a 32

foot sign upon the realization that there is a 150' wide Cal Trans Dumping Area along Highway 1 bordering our property on the east side, therefore making sign placement by the highway impossible. The steep downhill slope inhibits any viewing of a sign until at least 200 feet from the property line.

See Illustration B - Photo of Sign Placement

1, 2.

Issue 3.: Inappropriate to the Zoning:

Mary Walsh Appeal:

" The proposed project does not conform with the zoning of Agricultural, 60 acre minimum, nor does it qualify under the Expansion of Nonconforming Uses (Sec 20-480.025)...the staff report makes it clear that a winery is not permitted in any area of the Coastal Zone, even via a use permit."

The Facts:

The staff report states on Page PC-2: "The subject property is zoned AG, which has a 60 acre minimum within the Coastal Zone. Interestingly, a winery is not permitted, even via a use permit, within the Coastal Zone. However, because this winery pre-dated the adoption of the coastal zoning regulations, this permit is being processed under the provisions which allow the "expansion of a non-conforming use" through the use permit process."

Staff Report, Page PC-6 Coastal Development Permit Findings:

1. The proposed development is in conformity with the certified local coastal program; and...
2. The proposed development is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of the Coastal Zoning Code, and preserves the integrity of the zoning district...

Mary Walsh Appeal:

...the agricultural use upon which this is based has proven non-viable. In fact, there is no agriculture here to be "enhanced". The vineyard has not produced grapes for the winery, all grapes are trucked in, as stated by the applicants in commission hearings."

The Facts:

This vineyard was planted in 1991-92 and is only now reaching maturity. Grapes have been harvested from this vineyard and wine has been made from them from 1997 through 1999. The quality of the fruit is very high but the quantity cannot yet be considered of commercial size, thus 500 additional Pinot Noir vines were planted in 1998. Soil prep and infrastructure are in place for another planting of 500 in spring of 2000 and future plantings will follow. Specific comments were made about the viticultural difficulties encountered and these were misinterpreted at the Planning Commission hearing, leading to the confusion evidenced at the time of the vote.

Mary Walsh has submitted no documentation or qualifications to support her claims about this vineyard and is again ignoring the record available to her.

University of California Cooperative Extension's Viticultural and Plant Science Advisor, Glenn McGourty has closely worked with this vineyard throughout its development. In his letter dated April 27, 1999 and submitted in the application, he states " After 9 years of experimentation, the Pacific Star winery staff has developed a production system that results in mature Pinot Noir fruit for red still wine production. The site offers many challenges, and true to European

traditions, will produce vintage years some seasons, and other years, maturing fruit will be difficult. Winemakers and wine aficionados will tell you that many varieties reach greatness on the edge of their zone of adaptability. Presently, there is great interest in planting Pinot Noir in the cooler coastal areas, and Pacific Star is certainly leading this trend of new explorations in winegrowing in California."

The Mendocino County Farm Bureau supports this application. On October 14, 1999 the Board of Directors made this finding: "...it is a lawful, non-conforming agricultural production facility located in the Coastal Zone of Mendocino county and complies with the ordinance allowing wineries to locate, or expand, on agricultural zoned land in the County of Mendocino."

Mary Walsh Appeal:

"The proposal is actually to abuse the agricultural designation to establish an industrial facility as well as an oceanview retail store in the Coastal Zone."

The Facts:

Our application requests only the right to sell the product produced on site; a right granted by license to all legally bonded wineries. We have held California bonded Winery Permit # 5485 since 1988.

There are over 40 letters of support for the passage of this use permit by other local businesses emphasizing the need to maintain economically sustainable commercial activities while preserving and enhancing the agricultural traditions. Giving Pacific Star Winery a direct outlet to consumers makes our business healthy and viable and enhances the options of visitors on the Mendocino Coast.

Staff Report, Page PC-7:

10. Agricultural Land Impact Findings:

- (e.) The project ensures the preservation of the rural character of the site;
- (f.) The project maximizes reservation of prime agricultural soils;
- (g.) The project ensures existing land use compatibility by maintaining productivity of on-site and adjacent agricultural lands;

11. Expansion of a non-conforming use findings:

- (b.) That the use is, and after the expansion, will be compatible with adjacent land uses and that any increased adverse impacts on access or public facilities and services will be mitigated;
- (c.) That the site is physically separate from surrounding properties such that continued nonconforming use is appropriate in that location;
- (d.) The expansion is found consistent with all other applicable policies of the Coastal Element of the Mendocino General Plan.

This information and an exhaustive examination of the zoning issues pertinent to this project are available to Mary Walsh in the public record.

Mary Walsh Appeal:

"There are no other commercial or retail facilities along the coast from Mackerriker State Park to Westport, and this facility certainly cannot claim to be in keeping with the surrounding land uses..."

The Facts:

There are no less than 10 commercial or retail facilities along the coast from Mackeriker State Park to Westport. There are approximately 30 private homes in this area which are used as weekend and weekly vacation rentals registered and managed by vacation rental agencies.

See Illustration C – Map of Businesses

Issue 4: Public Access

Mary Walsh Appeal:

“The LCP includes a designation of the California Coastal Trail along the side of Highway 1 wherever it is not located along the blufftop. The planning department overlooked this requirement of dedication of a 15’ easement along the highway for the establishment of the trail.”

The Facts:

Cal Trans owns a 150’ right-of-way along the entire length of this property along Highway 1. When the original Coastal Permit was being prepared for the existing winery in 1988, the staff stated that they did not want to require public access in this area due to the instability of the cliffs.

Mary Walsh Appeal:

“This area has very little access, and if it is going to be commercialized, the Coastal Commission should be planning for public access trails.”

The Facts:

This area has an abundance of public access both to the south and north of Pacific Star Winery. Immediately adjacent to Pacific Star Winery on the north are two miles of open space administered by the State Park System, complete with paved turnouts, a Vista Point, and trails. One mile to the south there is another parking area with trail to the beach.

See Illustration D - Map of Public Access Areas

CONCLUSION:

In conclusion, this appeal is misleading in content; appearing to address valid questions, but omitting significant facts that are already a part of the public record and available to anyone truly interested in the facts. I believe it is a misuse of the appeal system.

The Board of Supervisors voted 5-0 in favor of the project. This entity represents a vast area and diverse political ideas, including those of Mary Walsh. When given all the facts and receiving answers to all of their questions, they were unanimous in their support of this project. They noted that immediate neighbors of Pacific Star Winery either attended the public hearing or wrote letters in support.

Sincerely,



Sally Ottoson, Applicant



View from Highway 1 South of Pacific Star at Mile Post 72.50



View from Highway 1 East of Pacific Star at Mile Post 73.47 before construction



View from Highway 1 East of Pacific Star at Mile Post 73.47 after construction

I Just. A

Pacific Star Winery

Storage Barn Expansion



View from Highway 1 at entrance of Pacific Star - Mile Post 73.58 before construction



View from Highway 1 at entrance of Pacific Star - Mile Post 73.58 after construction

February 7, 2000



View from Highway 1 North of Pacific Star - Mile Post 73.85 before construction



View from Highway 1 North of Pacific Star - Mile Post 73.85 after construction



Illust.
BI



N



Westport.

View from the road

PACIFIC
STAR
WINERY

10. Kibesillah Rock Co.

1

9. Orca Inn

Pacific
Ocean

Tenmile River

8. Ten Mile Inn

Mackernicher
State Park

7. Cleone Gardens Inn

Cleone Campground 4.

6. Pump House Gym

Cleone Market 3.

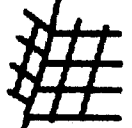
5. Watkins Sand & Gravel

Purple Rose Restaurant 2.

• Cleone

1. Riccochet Riding Stables

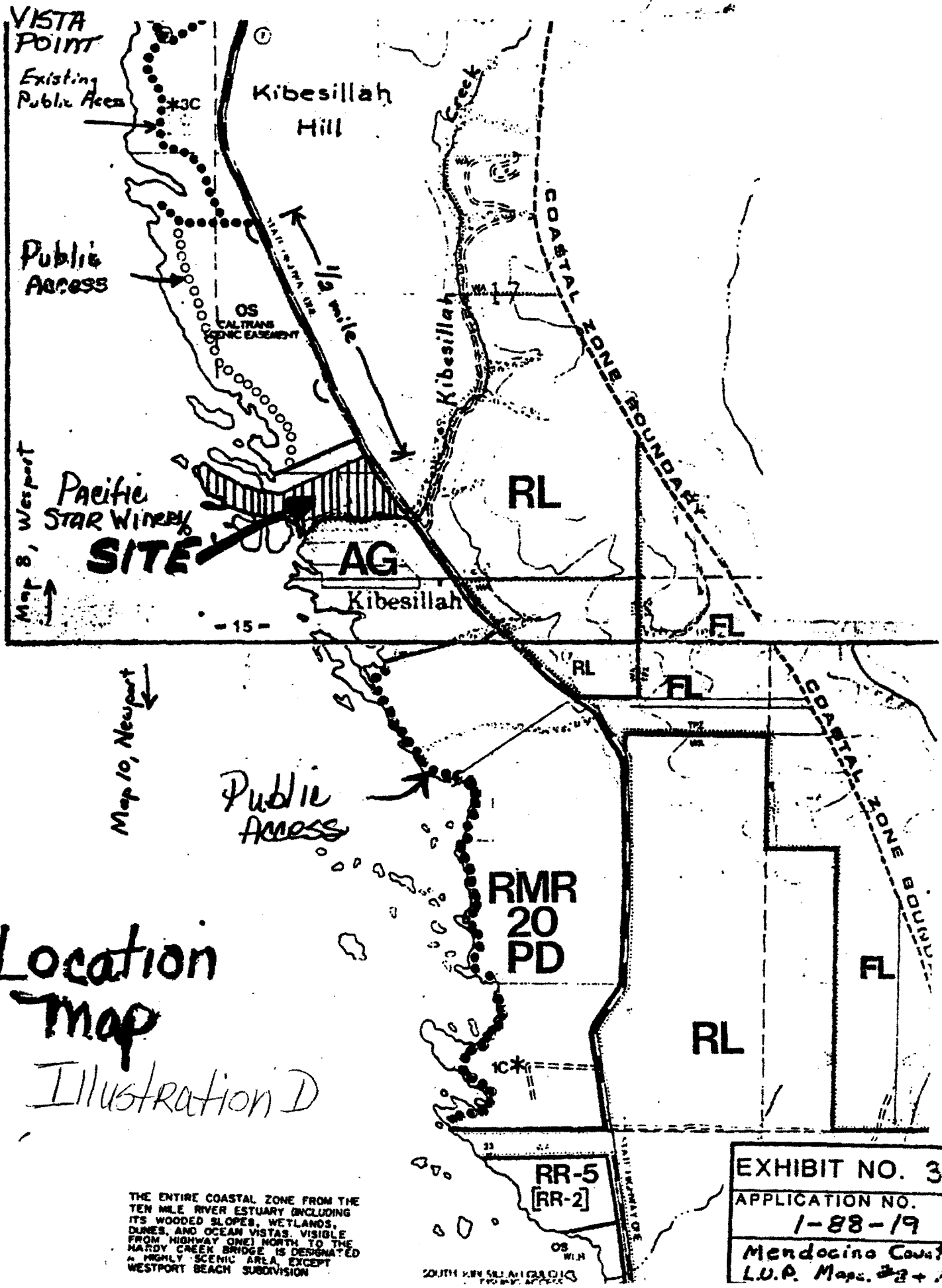
Fort Bragg



Noyo River

20

Illustration C



FEB 18 2000 10:34 AM FROM: L. LONJERS TO: 1014431011 1.01

Lynn D. Lonjers
C/O Kamine, Steiner & Ungerer, LLP
350 So. Figueroa Street, Suite 250
Los Angeles, California 90071
TEL: 213/972-0119 FAX: 213/972-0005

FAX TRANSMITTAL		Date: Feb. 18, 2000	pg. 1 of 2
To:	Eric Oppenheimer California Coastal Commission		
Fax:	(707) 445-7877	From:	L. Lonjers for Thomas Meagher

If this box is checked, this fax is **confidential**, contains **privileged information**, and is intended **only** for the person to whom it is addressed. If you are **not that person**, or the employee or agent responsible for delivering this fax to that person, you must telephone us immediately to arrange to return this page and all attachments to us at our expense, and you must **stop reading this fax at this point**. Any dissemination or copying of these pages is prohibited by law.

MESSAGE:

RE: Pacific Star Winery

In response to your request to Sally Ottoson regarding the upcoming hearing on Pacific Star Winery's expansion, her partner, Thomas Meagher, has drafted the attached document entitled "Vineyard Management Philosophy." Should you have any questions, you may page Mr. Meagher at (310) 501-0120.

PACIFIC STAR WINERY VINEYARD MANAGEMENT PHILOSOPHY

Pacific Star Winery ("Pacific") currently has 2 acres of Pinot Noir, Chardonnay and Riesling grapevines under cultivation. Pacific plans to expand its vineyard in the near future to total 5 acres under cultivation. The vines are being trained using a modified Sylvoz trellising system to maximize sunlight exposure, to increase grape quality, and to minimize fungus and insect problems.

Biologically friendly methods of pest control have already been put into practice. An example of integrated pest management is the use of carnivorous Decollate snails to control the population of French brown snails. Mustard has been replaced as a winter cover crop by a mixture of legumes, since mustard is a known preferred host plant for French brown snails.

In addition, the use of legumes as a winter cover crop provides a replenishment of nutrients to the soil, fixing the moderate amounts of soluble fertilizer applied through drip irrigation. The cover crop, which is tilled back into the soil, serves to increase the humus content of the soil, thereby increasing absorption and retention of moisture and nutrients, and decreasing runoff of fertilizers applied through drip irrigation.

One spraying of lime sulfur, a relatively innocuous dormant spray material, is done in the winter to destroy over-wintering spores, insect eggs and insects, thus decreasing the number of insecticide applications needed during the growing season. In fact, experience has shown that a winter dormant spraying often totally eliminates the need to use insecticides whatsoever during the growing season.

An environmental temperature, leaf moisture test system is to be installed using the U.C. Davis mildew severity index protocols to predict onset of mildew/fungus conditions. Anti-mildew/fungus chemicals can therefore be applied only when such conditions are present, rather than on the customary 7-14 day interval used elsewhere by the industry. When necessary, we will use elemental sulfur or systemic fungicides such as Rally or Balaton. Since they are applied to the foliage, we anticipate no runoff of these materials.

Weed control is accomplished in large part through mechanical means, i.e. disking and tilling of rows between vines. This leaves a small amount of area around individual vines not accessible to our present mechanical methods. Pacific's vineyard manager holds a Mendocino County pesticide applicator's license and is knowledgeable in a variety of herbicides. We prefer the use of biodegradable, contact, systemic herbicides, i.e. Roundup, which is absorbed into the plant tissue as phosphate fertilizer, at a rate which causes inter-cellular rupture. Thereafter, it degrades to a simple phosphate, which is then available as a nutrient to the vines.

In summary, our goal is to produce a high quality fruit, clean of any residues, using modern, but non-invasive agricultural methods.

RECEIVED
FEB 11 2000

CALIFORNIA
COASTAL COMMISSION

February 08, 2000

California Coastal Commission
710 E Street, suite 200
Eureka, CA. 95501

RE: Permit # A-1-MEN-00-002, Item NO. W 14c

I strongly support the appeal against granting a permit to expand a tasting room and storage area. County zoning states a tasting room must be located on the vineyard producing the grapes for the tasting. In this case the grapes used are produced far offsite, albeit perhaps bottled on site, and until there is a viable vineyard onsite from which they are producing the wines offered in the tasting room, expansion of current facilities should be denied. Expansion should not be granted on the assumption a new variety of grapes will be a successful planting - wait until it occurs and then revisit this matter.

Thank you for considering the above.

Sincerely yours,



Joan Curry
PO Box 457
Mendocino, CA, 95460

EXHIBIT NO.	13
APPLICATION NO.	A-1-MEN-00-02
OTTOSON	
CORRESPONDENCE	

MIKE THOMPSON

1ST DISTRICT, CALIFORNIA

COMMITTEES:

AGRICULTURE

ARMED SERVICES

**CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515**

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(707) 962-0933

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415 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-3311

February 22, 2000

Eric Oppenheimer
California Coastal Commission
710 E Street, Suite 200
Eureka, CA 95501

Dear Mr. Oppenheimer:

Attached please find a copy of my letter dated October 7, 1999 regarding the permit application submitted by Sally Ottoson of Pacific Star Winery. I understand the County of Mendocino approved this application, with conditions.

I recently learned this permit is currently under review by the Commission (A-1-MEN-00-02). It is also my understanding the local government substantive file documents do not follow a case on appeal, hence the attachment.

If you should need an original copy of the enclosed please contact me. I can be reached at 707 962-0933.

Sincerely,

MIKE THOMPSON
Member of Congress
First Congressional District, California

MT: ks

MIKE THOMPSON

1ST DISTRICT, CALIFORNIA

COMMITTEES:

AGRICULTURE

ARMED SERVICES



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October 7, 1999

Mr. Frank Lynch
Mendocino County Department
of Planning and Building
501 Low Gap Road, Room 1440
Ukiah, CA 95482

Re: Use Permit Application # CDU 16-99

Dear Mr. Lynch:

I am writing in support of the above mentioned permit application requested by Sally Ottoson of Pacific Star Winery.

I understand Pacific Star Winery wants to expand its current facility and your Department supports this application. Additionally, this request for expansion includes the planting of additional vineyards on-site, a use consistent with the winery's agricultural zoning designation.

I am in support of the agricultural employment and small-scale business enhancement this permit approval will represent.

Sincerely,

MIKE THOMPSON
Member of Congress
First Congressional District

MT: ks