

## CALIFORNIA COASTAL COMMISSION

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Filed: January 12, 2000  
49<sup>th</sup> Day: Opened and Continued  
Staff: Eric Oppenheimer  
Staff Report: April 26, 2000  
Hearing Date: May 10, 2000  
Commission Action:

STAFF REPORT  
DE NOVO HEARING ON APPEAL

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 22-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.

1. Procedure

On March 15, 2000, the Coastal Commission found that the appeal of Mendocino County's approval raised a substantial issue with respect to the grounds on which the appeal had been filed, pursuant to Section 13115 of the Title 14 of the California Code of Regulations. As a result, the County's approval is no longer effective, and the Commission must consider the project de novo. The Commission may approve, approve with conditions (including conditions different than those imposed by the County), or deny the application. Since the proposed project is (1) within an area for which the Commission has certified a Local Coastal Program, and (2) is located between the sea and the first public road paralleling the sea, the applicable standard of review for the Commission to consider is whether the development is consistent with Mendocino County's Local Coastal Program and with the public access and public recreation policies of the the Coastal Act. Testimony may be taken from all interested persons at the de novo hearing.

2. Continued De Novo Hearing

The de novo hearing was opened at the Commission meeting of March 15, 2000. Staff had recommended denial of the project based on inconsistencies with the certified LCP, with particular concerns regarding the expansion of the non-conforming use and impacts to visual resources. The Commission continued the hearing and directed staff to further investigate the project's consistency with the LCP policies regarding expansion of non-conforming uses and to examine the historical intent of the County LCP policies regarding the expansion of non-conforming uses. Additionally, the Commission requested the applicant to evaluate revised development scenarios (e.g. a lower building height) that would be consistent with LCP visual protection policies.

SUMMARY OF STAFF RECOMMENDATION:

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

The staff recommends that the Commission **APPROVE** the coastal development permit application for the proposed project on the basis that the project, as conditioned, is consistent with the County's certified LCP.

At the substantial issue portion of the appeal hearing, the commission found that the project, as approved by the County, raised a substantial issue with the County's certified LCP standards regarding visual resources, expansion of non-conforming uses, and public access. After additional research and further analysis of the LCP policies pertaining to the expansion of non-conforming uses, staff recommends that the Commission find the project, as conditioned, is consistent with the expansion of non-conforming use policies contained in the County's certified LCP. In addition, staff is recommending a number of special conditions, which, if attached to the coastal development permit for the proposed

project, will ensure the project's consistency with all other policies of the County's certified LCP.

Staff is recommending a condition that would require the applicant to prepare and submit final design and construction plans that implement the recommendations and design criteria identified in the applicant's geotechnical report. Another condition would require the applicant to submit revised design and construction plans that (1) limit building heights to a maximum of 18 feet above natural grade; and (2) limit on site signage to one 32-square-foot non-illuminated wooden sign, a maximum of 15 feet tall. These conditions also require the applicant to undertake the development in conformance with the final revised plans, which must be reviewed and approved by the Executive Director. Staff is also recommending a condition which would require the applicant to record a deed restriction stating that any future development of the property will require an amendment to the coastal development permit or a new coastal development permit. Additionally, the deed restriction would prohibit the approved development from being used as a commercial wine tasting facility.

Other recommended conditions include conditions which would require the applicant to submit revised erosion control plans, impose design restrictions on the proposed development, and obtain an encroachment permit from Caltrans.

Staff Recommends approval of the project only as conditioned herein.

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

1. MOTION:

I move that the Commission approve Coastal Development Permit No. A-1-MEN-00-02 pursuant to the staff recommendation.

2. RECOMMENDATION OF APPROVAL:

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

3. RESOLUTION TO APPROVE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the certified County of Mendocino LCP and is located between the sea and the nearest public road to the sea and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the

environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions: See attached.

III. Special Conditions:

1. Conformance of the Design and Construction Plans to Geotechnical Report.

A. All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with the recommendations contained in the geotechnical report dated April 22, 1999 prepared by BACE Geotechnical. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, evidence that an appropriate licensed professional has reviewed and approved all final design and construction plans and has certified that each of those plans is consistent with all of the recommendations specified in the above-referenced geotechnical reports approved by the California Coastal Commission for the project site.

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

2. No Future Bluff or Shoreline Protective Device

A(1) By acceptance of this permit, the applicant agrees, on behalf of herself and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. A-1-MEN-00-02, including, but not limited to, the structures, foundations, decks, driveways, or the septic system and any other future improvements in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, or other natural hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of herself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235 or under Mendocino County LUP Policy 3.4-12 and Zoning Code Section 20.500.020(E)(1).

A(2) By acceptance of this permit, the applicant further agrees, on behalf of herself and all successors and assigns, that the landowner shall remove the development authorized by this permit, including the structures, foundations, and septic system, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the

development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

- A(3) In the event the edge of the bluff recedes to within 10 feet of the existing winery building expansion or the new building authorized by the permit, but no government agency has ordered that the structures not be occupied, a geotechnical investigation shall be prepared by a licensed coastal engineer and geologist retained by the applicant, that addresses whether any portions of the structures are threatened by wave, erosion, storm conditions, or other natural hazards. The report shall identify all those immediate or potential future measures that could stabilize the buildings without shore or bluff protection, including but not limited to removal or relocation of portions of the buildings. If the geotechnical report concludes that a building or any portion of the building is unsafe for occupancy, the permittee shall, in accordance with a coastal development permit remove the threatened portion of the structure.

- B. PRIOR TO THE ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-00-002**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the above restrictions on development. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

3. Assumption of Risk, Waiver of Liability and Indemnity Agreement

- A. By acceptance of this permit, the applicant, on behalf of (1) herself; (2) her successors and assigns and (3) any other holder of the possessory interest in the development authorized by this permit, acknowledges and agrees (i) that the site may be subject to hazards from waves, storm waves, flooding and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; and (v) to agree to include a provision in any subsequent sublease or assignment of the development authorized by this permit requiring the sublessee or assignee to submit a written agreement to the Commission, for the review and approval of the Executive Director, incorporating all of the foregoing restrictions identified in (i) through (iv).

- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of subsection A of this condition. The restriction shall include a legal description of the landowner's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.
4. Future Development and Limitation on Use Deed Restriction.
- A. This permit is only for the development described in Coastal Development Permit No. A-1-MEN-00-002. Wine tasting facilities are not authorized by this coastal development permit. Except as provided in Public Resources Code section 30610 and applicable regulations, any future development as defined in PRC section 30106, including but not limited to, a change in the density or intensity of use land shall require an amendment to Permit No. A-1-MEN-00-002 from the California Coastal Commission or shall require an additional coastal development permit from the California Coastal Commission or from the applicable certified local government.
- B. This permit is only for the development described in coastal development permit No. A-MEN-00-02. Pursuant to Title 14 California Code of Regulations section 13250(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(b) shall not apply to the parcel. Accordingly, any future improvements to the development authorized by this permit, including but not limited to (1) repair and maintenance identified as requiring a permit in Public Resources section 30610(d) and Title 14 California Code of Regulations sections 13252(a)-(b), and (2) expansion of the vineyard, shall require an amendment to Permit No. A-MEN-00-02 from the Commission or from the applicable certified local government.
- C. No portion of the winery facilities shall be used for commercial wine tasting or on-site retail sales purposes.
- D. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restrictions on development. The deed restriction shall include legal descriptions of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

5. Revised Design and Construction Plans.

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit final design and construction plans, including but not limited to site plans, floor plans, building elevations, roofing plans, final material specifications, sign plans, and lighting plans to the Executive Director for review and approval. The final plans shall show the following changes to the project:

1. ARCHITECTURAL REVISIONS

(a) The new barn building constructed pursuant to Coastal Development Permit No. A-1-MEN-00-02 shall be reduced in height to a maximum of 18 feet tall above natural grade as measured pursuant to the guidance provided by Mendocino County in Exhibit 12 of the Commission staff report. To achieve this reduction in height the new barn building may be moved northward toward the existing structure, however the new barn building shall not be moved any closer to Highway One.

2. SIGN PLAN

(a) Only one sign constructed of wood on larger than 32-square feet in area is permitted on site. The sign must be setback a minimum of 150 feet from the centerline of Highway One and be a maximum of 15 feet tall. The sign may not be illuminated from any source.

B. The final plans shall, prior to submittal to the Executive Director, be reviewed and certified by a qualified professional to ensure that they are consistent with the Commission's approval and with the recommendations of any required technical reports.

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

5. Erosion and Run-Off Control Plans

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for review and approval of the Executive Director, a revised plan for erosion and run-off control.

1. REVISED EROSION CONTROL PLAN

(a) The revised erosion control plan shall demonstrate that:

- (1) During and after construction, erosion on the site shall be controlled to avoid adverse impacts to Kibesillah Creek.
  - (2) The following temporary erosion control measures shall be used during construction: hay bales and other siltation barriers shall be placed between areas of soil disturbance and Kibesillah Creek. If precipitation occurs soil piles shall be covered or contained and stormwater run-on shall be directed away from disturbed areas.
  - (3) Following construction, erosion on the site shall be controlled and disturbed areas stabilized with seeding, mulching or other methods necessary to avoid sediment discharge and adverse impacts to Kibesillah Creek.
  - (4) Excavated material shall be stabilized or disposed of in a manner that will not have the potential for discharge to Kibesillah Creek or the Pacific Ocean, neither directly by dumping or indirectly by stormwater wash-off from the site.
- (b) The revised plan shall include, at a minimum, the following components:
- (1) A narrative report describing all temporary run-off and erosion control measures to be used during construction and all permanent erosion control measures to be installed for permanent erosion control.
  - (2) A site plan showing the location of all temporary erosion control measures.
  - (3) A schedule for installation and removal of the temporary erosion control measures.
  - (4) A site plan showing the location of all permanent erosion control measures.
  - (5) A schedule for installation and maintenance of the permanent erosion control measures.
  - (6) A soil management plan that identifies the location (on and off site) and method of disposal for all excavated material.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.
6. Design Restrictions
- All exterior siding and visible exterior components of the structures authorized pursuant to Coastal Development Permit A-1-MEN-00-02 shall be of natural or natural-appearing materials of dark earthtone colors, only, and the roof of any



structure shall also be of dark earthtone color and shall be of natural-appearing material. In addition, all exterior materials, including the roofing materials and windows, shall be non-reflective to minimize glare. Additionally, all development authorized pursuant to Coastal Development Permit A-1-MEN-00-02 shall be designed and constructed to match the motif and color schemes of the existing on-site development (barn). Finally, all exterior lights, including lights attached to the outside of any structures, shall be low-wattage, non-reflective and have a directional cast downward.

7. California Department of Transportation Approval

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** applicant shall provide to the Executive Director a copy of an encroachment permit issued by the California Department of Transportation, or letter of permission, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the California Department of Transportation. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is required.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. PROJECT HISTORY.

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 issued a Notice of Final Action, which was received by Commission staff on January 3, 2000 (Exhibit 7). The local decision was then appealed to the Commission, by Mary Walsh and the Mendocino & Lake Group Sierra Club, in a timely manner on January 12, 2000.

The hearing on the appeal was opened and continued on February 16, 2000. Staff prepared a recommendation that the Commission find that the project as approved by the County raised a substantial issue of conformance with the County's certified LCP. Staff also recommended denial of the project based on inconsistencies with a number of policies of the certified LCP, with particular concerns regarding expansion of non-conforming use and visual protection policies. The Commission found substantial issue

on March 15, 2000, continued the de novo hearing, and directed staff to further investigate the project's consistency with the County's LCP.

**B. 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 proposed development 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 22-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 forty-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. The proposed wine tasting room would occupy a 3000-square-foot portion of the building addition. All of the proposed 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 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 currently 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.

C. ANALYSIS OF LCP CONSISTENCY

1. Non-Conforming Winery Use in Agricultural Area

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 states 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 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.

The preamble of Zoning Code Section 20.480.025 states that a non-conforming use can only be expanded or reduced to a use of lesser intensity (emphasis added). Because of the ambiguity inherent in this policy language and because Zoning Ordinances typically strive to promote the elimination of non-conforming uses rather than facilitate their expansion, the Commission staff initially interpreted Zoning Code Section 20.480.025 to mean that Non-conforming uses could only be expanded to uses of lesser intensity. As a result of this interpretation, staff initially recommended denial of the proposed development, in part because the project is an expansion of non-conforming use that was thought to be inconsistent with Zoning Code Section 20.480.025. However, during the March 15, 2000 Commission meeting, the Commission directed staff to further investigate the legislative intent of Zoning Code Section 20.480.025 and re-evaluate the project's conformance with this zoning provision. Based on subsequent research and consultation with County staff, it appears that it was always the County Board of Supervisors intention to allow the expansion of a non-conforming uses to uses of either lesser or increased intensity. Furthermore, County staff have indicated that they have interpreted and implemented Zoning Code Section 20.480.025 to allow the expansion of legal nonconforming uses to uses of increased intensity and that they believe that Coastal Commission staff's original interpretation of the policy was incorrect (Exhibit 13). Based on this clarification of the intent of Zoning Code Section 20.480.025, the

Commission finds that the expansion of the proposed non-conforming winery use is consistent with Zoning Code 20.480.025.

Zoning Code Section 20.480.025 also 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 and other additional criteria. These criteria include requirements that (1) it is not reasonably economically or physically feasible to make the use of the property compatible with the applicable general plan designation; (2) 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) the site is physically separate from surrounding properties such that continued nonconforming use is appropriate in that location.

With regard to applicable general plan policies, the expansion of the winery would encourage the economic viability of the agricultural operation consistent with LUP policy 3.2-4. As noted above, the Coastal Zoning Ordinance does not permit "Packing and Processing: Winery" as an allowable conditional use type within agricultural zoning districts. However, the County's LUP designation for Agriculture has allowed processing uses associated with agricultural operations in a more general sense and the LUP does not differentiate or exclude packaging and processing uses associated with winery operations. Therefore the proposed winery and tasting room are consistent with the applicable general plan designation. Additionally, the proposed development would be compatible with adjacent land uses and would be physically separate from the surrounding properties as the property is bounded by the Highway One to the east, the Pacific Ocean to the west, Kibesillah Creek to the south, a similarly zoned vacant parcel to the north (also owned by the applicant), and a Caltrans vista point further to the north. Furthermore, the development exceeds all the required set backs established for the Agricultural zoning district. Therefore, for the reasons stated above, the expansion of the winery operation itself would be an expansion of an existing legal non-conforming use consistent with the provisions of Zoning Code Section 20.480.025.

However, the establishment of a new commercial wine tasting facility and the associated on-site retail sales use, would not be consistent with existing LCP, specifically Zoning Code section 20.356.010 which does not allow for new commercial wine tasting facilities in agricultural zoning districts within the coastal zone. Pursuant to Zoning Code Section 20.336.035(B), tasting rooms are only allowed in conjunction with the "*packing and processing: winery*" use type. Although the winery was approved by the Commission in 1988 pursuant to Coastal Development Permit No. 1-88-19 (Goldenberg), no commercial wine tasting facility or retail sales use was ever approved on the subject property. Therefore, the proposed new commercial wine tasting facility would be a new non-conforming use of the property. Although Section 20.480.025 allows for expansion of existing legal nonconforming uses, the section does not allow for the establishment of new legal nonconforming uses.

Therefore, the Commission attaches Special Condition No. 4, which requires recordation of deed restriction stating that the winery shall not be used for commercial wine tasting or

on-site retail sales. Special Condition No. 4 will effectively eliminate the proposed commercial wine tasting use to ensure that no new uses are established which do not conform with the allowable uses in agricultural zoning districts.

The Commission finds that as conditioned, the proposed project is consistent with the LCP policies pertaining to the expansion of non-conforming uses, including Zoning Code Section 20.480.025, as the proposed development meets the standards required for an expansion of a non-conforming use.

LUP policy 3.2-4 allows for compatible activities that enhance the economic viability of agricultural lands if the project meets a number of the specific criteria.

These criteria are that 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 project, as conditioned to eliminate the commercial wine tasting use and reduce the height of the barn structure, meets these criteria. The proposed project maximizes the protection of sensitive coastal resources by being sited out of and away from any on-site or adjacent environmentally sensitive habitat areas. The project has been designed to utilize existing roads and no new roads will be constructed as a result of the proposed development. Furthermore, the approved facilities have been designed only to accommodate the processing of agricultural products. As conditioned, the project will be visually subordinate to the surrounding area, protect visual resources, and maintain the agricultural and rural character of the area (see finding No. 3 above regarding visual resources). Additionally, existing on-site water and sewer services are adequate to serve the proposed development (see Finding No. 1 above Planning and Locating New Development).

Therefore, the Commission finds the proposed project, as conditioned, to be consistent with the Certified LCP, including LCP policy 3.2-4, as the proposed development meets the required standards to be a permitted use on an agricultural parcel; the proposed development has been sited on a portion of the 15-acre parcel where it will have the least amount of adverse impacts on existing and future agricultural production, while still having minimal visual impacts; and the agricultural productivity of the property will be protected and maintained.



2. Locating and Planning New Development

Policy 3.9-1 of the Mendocino County Land Use Plan states that new development shall be located within or near existing developed areas able to accommodate it or in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. The intent of this policy is to channel development toward more urbanized areas where services are provided and potential impacts to resources are minimized.

Policy 3.8-1 states that Highway 1 capacity, availability of water and sewage disposal systems and other know planning factors shall be considered when considering applications for development permits.

The subject property is zoned in the County's LCP as Agricultural which has a 60 acre minimum parcel size in the coastal zone. The subject parcel, which is approximately 15 acres in size, is a legal, non-conforming parcel. The site is located within a critical water resource area, as defined by the Coastal Ground Water Study. The site is served by onsite wells and septic systems and the applicant has indicated that the expanded winery operation will only result in a 5 percent increase of water use.

In June of 1989 the Commission issued Emergency Permit No. 1-89-3G for a new water supply well on the subject property to replace the existing well that had gone dry. In October of 1989, Amendment No. 1-88-19-A was issued to Jacob Goldenberg to authorize the replacement well on a permanent basis. In February of 1991, Mr. Goldenberg submitted an application to the Commission for another amendment to Coastal Development Permit No. 1-88-19, which included a request to withdraw surface water from Kibesillah Creek. However, a complete application was never received by the Commission and consequently the application for permit amendment was ultimately returned to the applicant and never processed by the Commission. According to the State Water Resources Control Board's Division of Water Rights staff, there are no permitted water rights along Kibesillah Creek in the vicinity of the subject property (Inglenook Quadrangle, Section 17, T 20N, R 17W) nor are there any Statements of Water Diversion and Use on file with the Division of Water Rights in the vicinity of the proposed project. The applicant could potentially use water from Kibesillah Creek by filing a Statement of water Diversion and Use with the Division of Water Rights. However, an alleged claim of riparian water rights must be adjudicated by a superior court of law before such a claim would become an actual water right. Therefore, there is no evidence to suggest that the applicant has a right to divert surface water from Kibesillah Creek and the adequacy of the water supply to serve the proposed development must be based on water yields from existing on-site wells.

The Mendocino County Department of Environmental Health and the Mendocino County Water Agency have reviewed the proposed project and have determined that the increased production level requested will not significantly increase water demand due to the limited peak season use and the coastal environment. According to the Mendocino

County Department of Environmental Health, the proposed project constitutes a minor water use, as it will require significantly less than 1,500 gallons of water per day. Pursuant to the Mendocino County Coastal Groundwater Development Guidelines, projects involving minor water uses do not require hydrological studies to be conducted to determine if sufficient water exists to serve proposed developments. Mendocino County has determined that the existing onsite wells and septic system are adequate for the operation.

Therefore, the Commission finds, therefore, that the proposed development, as conditioned, is consistent with LUP Policies 3.8-1 and 3.9-1, because there will be adequate services on the site to serve the proposed development.

3. Geologic Hazards:

LUP Policy 3.4-7 states that:

*The County shall require that new structures be set back a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (75 years). Setbacks shall be of sufficient distance to eliminate the need for shoreline protective works. Adequate setback distances will be determined from information derived from the required geologic investigation and from the following setback formula:*

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

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

*All grading specifications and techniques will follow the recommendations cited in the Uniform Building Code or the engineering geologist's report.*

This language is reiterated in Zoning Code Section 20.500.020(B).

LUP Section 3.4-8 states that:

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

LUP 3.4-9 states that:

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

Zoning Code Section 20.500.010 states that development shall:

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

Zoning Code Section 20.500.020(B) states that

*Construction landward of the setback shall not contribute to erosion of the bluff face or to instability of the bluff.*

LCP Policy 3.4-12 and Zoning Code Section 20.500.020(E)(1) state that

*Seawalls, breakwaters, revetments, groins, harbor channels and other structures altering natural shoreline processes or retaining walls shall not be permitted unless judged necessary for the protection of existing development, public beaches or coastal dependent uses.*

The geotechnical investigation report initially prepared and submitted for the project by BACE Geotechnical, dated April 22, 1999, states that "*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.*" The report concludes that based on a bluff retreat rate of five inches per year, the bluff could erode back a total of 31-1/4 feet with a 75-year period and that a 65-foot setback (which incorporates a two-fold safety factor) should be adequate to protect the structure.

The proposed new barn is sited 65 feet from the bluff edge, the minimum distance recommended by the geotechnical reports. The proposed addition to the existing building is sited seaward of the existing building, closer to the bluff edge. The proposed new addition to the existing building would be located over 150 feet away from the bluff edge.

To ensure that the project will not create any geologic hazards, the Commission has attached to the permit several Special Conditions. Special Condition No. 1 requires submittal of final foundation and site drainage plans that incorporate all recommendations of the geotechnical reports and addendum, intended to avoid creating a geologic hazard. Special Condition No. 1 also requires development to proceed consistent with the certified plans. This condition reiterates a similar condition that was required by Mendocino County in their original approval of the project.

In accordance with the provisions of Section 13253(b)(6) of Title 14 of the California Code of regulations, the Commission also attaches Special Condition No. 4 which requires recordation of a future development deed restriction. Section 30610(b) of the Coastal Act exempts certain additions to existing structures other than single family residential structures from coastal development permit requirements. Thus, once the development has been constructed, certain additions and accessory buildings that the applicant might propose in the future could be exempt from the need for a permit or permit amendment. However, depending on its nature, extent, and location, such an addition or accessory structure could contribute to geologic hazards at the site. For example, installing a landscape irrigation system on the property in a manner that leads to saturation of the bluff would increase the potential for landslides or catastrophic bluff failure. Another example would be installing a sizable addition for additional storage, or other uses normally associated with a winery in a manner that does not provide for the collection, conveyance, and discharge of roof runoff to areas away from the bluff edge. Such runoff to the bluff edge could potentially exacerbate bluff erosion at the subject site.

To avoid such impacts to coastal resources from the development of otherwise exempt additions to existing structures, Section 30610(b) requires the Commission to specify by regulation those classes of development which involve a risk of adverse environmental effects and require that a permit be obtained for such improvements. Pursuant to Section 30610(b) of the Coastal Act, the Commission adopted Section 13250 of Title 14 of the California Code of regulations. Section 13253(b)(6) specifically authorizes the Commission to require a permit for additions to structures other than existing single family residences that could involve a risk of adverse environmental effect by indicating in the development permit issued for the original structure that any future improvements would require a development permit. As noted above, certain additions or improvements to the approved structure could involve a risk of creating geologic hazards at the site. Therefore, in accordance with provisions of Section 13253(b)(6) of Title 14 of the California Code of Regulations, the Commission attaches Special Condition No. 4 which requires that all future development on the subject parcel that might otherwise be exempt from coastal permit requirements requires an amendment or coastal development permit. This condition will allow future development to be reviewed by the Commission to ensure that future improvements will not be sited or designed in a manner that would result in a geologic hazard. Special Condition No. 4 also requires recordation of a deed restriction to ensure that all future owners of the property are aware of the requirement to obtain a permit for development that would otherwise be exempt. Recordation of a deed restriction will reduce the potential for future landowners to make improvements to the winery buildings without first obtaining a permit as required by this condition.

The Commission also attaches Special Condition No. 2, which prohibits the construction of shoreline protective devices on the parcel and requires that the landowner provide a geotechnical investigation and remove a building and its foundation if bluff retreat reaches the point where the structure is threatened, and that the applicant accepts sole responsibility for the removal of any structural debris resulting from landslides, slope failures, or erosion of the site.

These requirements are consistent with LUP policy 3.4-7 and Section 20.500.010 of the Mendocino County Coastal Zoning Ordinance, which states that new development shall minimize risk to life and property in areas of high geologic, flood, and fire hazard, assure structural integrity and stability, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The Commission finds that the proposed development could not be approved as being consistent with Zoning Code Section 20.500.010 if projected bluff retreat would affect the proposed building additions and necessitate construction of a seawall to protect them.

In addition, LUP Policy 3.4-12 and Zoning Code Section 20.500.020(E)(1) allow the construction of shoreline protective devices only for the protection of existing development. The construction of a shoreline protective device to protect new development is not permitted by the LCP. In addition, as discussed further below, the construction of a protective device to protect new development would also conflict with the visual policies of the certified LCP.

The applicant is proposing to construct a new barn and a 2,271-square foot addition to an existing winery/residence building. The proposed addition to the existing building is sited seaward of the existing building, closer to the bluff edge. The new barn and building addition will be located on a 40 to 60-foot-high bluff top that is gradually eroding. According to the geotechnical report prepared for the project, several small sea caves, approximately 10 to 15 feet wide, by about 10 feet high, penetrate about 10 to 20 feet into the toe of the bluff. The site also contains two landslides along the blufftop, the largest of which measures approximately 30 feet high by 40 feet wide. Thus, the new structures would be located in an area of high geologic hazard. The new development can only be found consistent with the above-referenced provisions if the risks to life and property from the geologic hazards are minimized and if a protective device would not be needed in the future. The applicant has submitted information from a geologist which states that if the new development is set back 65 feet from the bluff edge, it would be safe from erosion and would not require any devices to protect the proposed development during its useful economic life.

Although a geotechnical evaluation is a necessary and useful tool that the Commission relies on to determine if proposed development is appropriate at all on any given blufftop site, the Commission finds that a geotechnical evaluation alone is not a guarantee that a development will be safe from bluff retreat. It has been the experience of the Commission that in some instances, even when a thorough professional geotechnical analysis of a site has concluded that a proposed development will be safe from bluff retreat hazards, unexpected bluff retreat episodes that threaten development during the life of the structure sometimes still do occur. Examples of this situation include:

- The Kavich Home at 176 Roundhouse Creek Road in the Big Lagoon Area north of Trinidad (Humboldt County). In 1989 the Commission approved the construction of a new house on a vacant blufftop parcel (Permit 1-87-230). Based on the

geotechnical report prepared for the project it was estimated that bluff retreat would jeopardize the approved structure in about 40 to 50 years. In 1999 the owners applied for a coastal development permit to move the approved house from the blufftop parcel to a landward parcel because the house was threatened by 40 to 60 feet of unexpected bluff retreat that occurred during a 1998 El Nino storm event. The Executive Director issued a waiver of coastal development permit (1-99-066-W) to authorize moving the house in September of 1999.

- The Denver/Canter home at 164/172 Neptune Avenue in Encinitas (San Diego County). In 1984 the Commission approved construction of new house on a vacant blufftop lot (Permit 6-84-461) based on a positive geotechnical report. In 1993, the owners applied for a seawall to protect the home (Permit Application 6-93-135). The Commission denied the request. In 1996 (Permit Application 6-96-138), and again in 1997 (Permit Application 6-97-90) the owners again applied for a seawall to protect the home. The Commission denied the requests. In 1998, the owners again requested a seawall (Permit Application 6-98-39) and submitted a geotechnical report that documented the extent of the threat to the home. The Commission approved the request on November 5, 1998.
- The Bennett home at 265 Pacific Avenue, Solana Beach (San Diego County). In 1995, the Commission approved a request to construct a substantial addition to an existing blufftop home (Permit 6-95-23). The minimum setback for the area is normally 40 feet. However, the applicants agreed to waive future rights to shore/bluff protection if they were allowed to construct 25 feet from bluff edge based on a favorable geotechnical report. The Commission approved the request on May 11, 1995. In 1998, a substantial bluff failure occurred, and an emergency permit was issued for a seawall. The follow-up regular permit (#6-99-56) was approved by Commission on May 12, 1999. On August 18, 1999, the Commission approved additional seawall and upper bluff work on this and several other properties (Permit #6-99-100).
- The McAllister duplex at 574 Neptune Avenue, Encinitas (San Diego County). In 1988, the Commission approved a request to construct a duplex on a vacant blufftop lot (Permit #6-88-515) based on a favorable geotechnical report. By October 1999, failure of the bluff on the adjoining property to the south had spread to the bluff fronting 574 Neptune. An application is pending for upper bluff protection (Permit #6-99-114-G).
- The Arnold project at 3820 Vista Blanca in San Clemente (Orange County). Coastal development permit (Permit # 5-88-177) for a blufftop project required protection from bluff top erosion, despite geotechnical information submitted with the permit application that suggested no such protection would be required if the project conformed to 25-foot blufftop setback. An emergency coastal development permit (Permit #5-93-254-G) was later issued to authorize blufftop protective works.

The Commission notes that the examples above are not intended to be absolute indicators of bluff erosion on the subject parcel, as coastal geology can vary significantly from location to location. However, these examples do illustrate that site specific geotechnical evaluations cannot always accurately account for the spatial and temporal variability associated with coastal processes and therefore cannot always absolutely predict bluff erosion rates. Collectively, these examples have helped the Commission form its opinion on the vagaries of geotechnical evaluations with regard to predicting bluff erosion rates.

In this case, the uncertainty of the conclusions of the geotechnical analysis is heightened because the geotechnical report that has been prepared to date does not include any quantitative analysis explaining how a bluff retreat rate of four to five inches per year was determined. The recommendations in the geotechnical report are founded, in part, on the review of aerial photographs taken between 1964 and 1981; however, the geotechnical report does not specifically state how much bluff retreat has occurred between 1964 and 1981. The geotechnical report only states that:

*"review of the 1964 and 1981 aerial photograph enlargements, compared with what is visible now, show no major changes at the proposed barn site...local bluff retreat, 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)."*

The geotechnical report is also based on comparisons of aerial photographs and current site conditions, however there is no discussion of how these comparisons were made. Furthermore, the BACE geotechnical report states that their geological and engineering services and review of the proposed development 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 the report."* This language in the report itself is indicative of the underlying uncertainties of this and any geotechnical evaluation and supports the notion that no guarantees can be made regarding the safety of the proposed development with respect to bluff retreat.

In the Commission's experience, geologists have no way of absolutely predicting if or when bluff erosion on a particular site will take place, and cannot predict if or when a house or property may become endangered. Geologic hazards are episodic, and bluffs that may seem stable now may not be so in the future. Therefore, the Commission finds that the subject lot is an inherently hazardous piece of property, that the bluffs are clearly eroding, and that the proposed new development will be subject to geologic hazard and may someday require a bluff or shoreline protective device, inconsistent with Zoning Code Section 20.500.010. Based upon the geologic report, the Commission finds that the risks of geologic hazard are minimized if the structures are set back at least 65 feet from the bluff edge. However, given that the risk cannot be eliminated and the geologic report does not assure that shoreline protection will never be needed to protect the structures, the Commission finds that the proposed development is consistent with the certified LCP

only if it is conditioned to provide that shoreline protection will not be constructed. Thus, the Commission further finds that due to the inherently hazardous nature of this parcel, the fact that no geology report can conclude with any degree of certainty that a geologic hazard does not exist, the fact that the approved development and its maintenance may cause future problems that were not anticipated, and because new development shall not engender the need for shoreline protective devices, it is necessary to attach Special Condition No. 2 requiring a deed restriction prohibiting the construction of seawalls and Special Condition No. 3 requiring a deed restriction waiving liability.

As noted above, some risks of an unforeseen natural disaster, such as an unexpected landslide, massive slope failure, erosion, etc. could result in destruction or partial destruction of the barn or other development approved by the Commission. In addition, the development itself and its maintenance may cause future problems that were not anticipated. When such an event takes place, public funds are often sought for the clean up of structural debris that winds up on the beach or on an adjacent property. As a precaution, in case such an unexpected event occurs on the subject property, the Commission attaches Special Condition No. 2(A)(2), which requires the landowner to accept sole responsibility for the removal of any structural debris resulting from landslides, slope failures, or erosion on the site, and agree to remove the house should the bluff retreat reach the point where a government agency has ordered that the structure not be occupied.

The Commission finds that Special Condition No. 2 is required to ensure that the proposed development is consistent with the LCP and that recordation of the deed restriction will provide notice of potential hazards of the property and help eliminate false expectations on the part of potential buyers of the property, lending institutions, and insurance agencies that the property is safe for an indefinite period of time and for further development indefinitely into the future, or that a seawall could be constructed to protect the development.

Additionally, the Commission attaches Special Condition No. 3, which requires the landowner to assume the risks of extraordinary erosion and geologic hazards of the property and waive any claim of liability on the part of the Commission. Given that the applicant has chosen to implement the project despite these risks, the applicant must assume the risks. In this way, the applicant is notified that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires the applicant to indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand hazards. In addition, the condition ensures that future owners of the property will be informed of the risks, the Commission's immunity from liability, and the indemnity afforded the Commission.

The Commission thus finds that the proposed development, as conditioned, is consistent with the policies of the certified LCP regarding geologic hazards, including LUP Policies 3.4-7, 3.4-8, 3.4-9, 3.4-12, and Zoning Code Sections 20.500.010 and 20.500.020, as the proposed development will not result in the creation of any geologic hazards, will not have adverse impacts on the



stability of the coastal bluff or on erosion, and the Commission will be able to review any future additions to ensure that development will not be located where it might result in the creation of a geologic hazard. Only as conditioned is the proposed development consistent with the LCP policies on geologic hazards.

4. Visual Resources.

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. ...*

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 20.356.040 **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. ...*

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...*

Zoning Code Section 20.504.015(C)(1) states that:

*Any development permitted in highly scenic areas shall provide for the protection of coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes.*

Zoning Code Section 20.504.015(C)(3) states that:

*New development shall be subordinate to the natural setting and minimize reflective surfaces. In highly scenic areas, building materials including siding and roof materials shall be selected to blend in hue and brightness with their surroundings.*

Zoning Code Section 20.504.035(A)(2) states that:

*Where possible, all lights shall be shielded or positioned in a manner that will not shine light or allow glare to exceed the boundaries of the parcel on which it is placed.*

The proposed development would be 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 and white 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, three 5,000-gallon water tanks, and a test-plot vineyard were developed pursuant to Coastal Development Permit No. 1-88-19 that was issued by the Commission in 1988. 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 a 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.

Visual resources and building height limitations:

The proposed development includes the construction of a 22-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. The proposed barn building is actually 28 feet tall as measured from the base of the structure to its tallest point at the roof ridgeline and the County staff report prepared for the project indicated that the proposed barn would be 28 feet tall. However, the structure has been designed to be partially sunken below the natural grade and the height of the barn is actually an average of 22 feet above natural grade, as measured pursuant to County guidelines for determining building heights (Exhibit 12). This method involves averaging the maximum actual heights of the building above grade at each end of the structure.

Although the guidelines have been used by the County to determine the height of a structure above natural grade since certification of the LCP, the guidelines were never submitted for certification by the Commission. Thus, the Commission is not bound to use the guidelines as the means to determine the height of the proposed barn structure. However, the Commission finds that the method the County uses to determine building height under the guidelines is reasonable and appropriate in this case.

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 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.

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 proposed structures from public vantage points near and along Highway One. The proposed barn at 22 feet would be lower than the existing barn and would appear subordinate to the existing 30-foot-tall barn. Additionally, since the proposed barn has been designed in approximate parallel location relative to the existing barn, it will appear to be superimposed on to the existing barn as viewed from a southern approach on Highway One. Vice versa, the existing barn would somewhat block the view of the proposed barn when approaching from the north. These features help make the proposed development more compatible with the character of its setting. However, the proposed 22-foot-tall barn would be still visible from multiple public vantagepoints along the highway and the barn would block a small portion of the expansive blue and whitewater views.

The applicant emphasizes that the barn must be constructed as proposed (28 feet tall from base to ridgeline) to accommodate winery operations and that decreasing the structure height is not a viable option. The applicant also states that sinking the structure further below the ground surface would require excessive excavation and would be cost prohibitive should foundation excavations encounter hard rock material. However, as proposed by the applicant, the barn would be sunken approximately 12 feet below natural grade, at it's lowest point. There is no geotechnical evidence to suggest that digging the foundation excavations four feet deeper would be infeasible.

The applicant further asserts that the proposed 22-foot-tall building would only constitute a minimal exceedence over the 18-foot height limitation and the 4 foot-exceedence would appear to be minimal given the viewing distance from Highway One. Despite the applicant's assertion, the proposed 22-foot-tall barn would clearly affect public views to the ocean as it would block blue and whitewater views from various public vantage points. Additionally, the proposed barn, at 22 feet tall above natural grade, would be inconsistent with Mendocino County Zoning Coastal Code Section 20.356.040. Therefore, to minimize the blockage of the water views and ensure that the project will not create any adverse visual impacts that are inconsistent with the certified LCP, the Commission attaches Special Condition No. 5 which requires submittal of final site and construction plans, for review and approval of the Executive Director, indicating that the barn will be reduced in height to a maximum of 18 feet tall above natural grade (as measured pursuant to the guidance provided by Mendocino County in Exhibit 12).

Special Condition No. 5 also requires development to proceed consistent with the final approved plans.

Visual resources and character of development:

LUP Policy 3.5-3 states that new development within designated Highly Scenic Areas west of Highway One should be subordinate to its natural setting. As mentioned above many features of the proposed development have been designed to minimize the projects appearance and to keep the development subordinate to it's natural setting. However, given the extreme beauty of the site and the scenic quality of the surrounding area, the project as proposed would not be completely subordinate to the character of the area, as the proposed barn would still be very visible from Highway 1.

The Commission has attached a number of special conditions to ensure that the proposed development remains subordinate to the surrounding area. Special Condition No. 4 requires the applicant to record a deed restriction stating that the proposed development will not be used for commercial wine tasting or on-site retail sales purposes. Special Condition No. 4 will ensure that proposed development will be consistent with LUP policy 3.5-3 and Zoning Code Section 20.504.015(C)(3), by reducing the intensity of use of the site and keeping the development subordinate to the agricultural and open space character of the surrounding area.

The Commission also attaches Special Condition No. 6, which imposes design restrictions, including a requirement that all exterior siding and roofing of the proposed structure shall be of natural or natural-appearing materials of dark earthtone colors only; that all exterior materials, including the roof and the windows, shall be non-reflective to minimize glare; and that all exterior lights, including any lights attached to the outside of the house, shall be low-wattage, non-reflective, and have a directional cast downward. These requirements are consistent with the provisions of Zoning Code Sections 20.504.020(C) and 20.504.035(A)(2).

The Commission also attaches Special Condition No. 4, which requires recordation of a deed restriction stating that all future development on the subject parcel that might otherwise be exempt from coastal permit requirements requires an amendment or coastal development permit. This condition will allow future development to be reviewed to ensure that the project will not be sited or developed in a manner where it might have significant adverse impacts on visual and scenic resources.

Visual resources and sign limitations:

As noted above, the proposed development includes a 40-square-foot on-site sign. Mendocino County Coastal Zoning Code states that "*signs shall not block public views of the ocean.*" However, due to the open nature of the site, a forty-square-foot sign could potentially block public views to the ocean. To ensure that the proposed sign will not block public views to the ocean, the Commission attaches Special Condition No. 2, which, in part, requires the applicant to submit a sign plan for review and approval of the Executive Director. Special Condition No. 2 effectively requires that only 1 sign

constructed of wood and a maximum of 32 square feet and a maximum of 15 feet tall be permitted on the property. Additionally, Special Condition No. 2 requires that the sign be located at least 150 feet from the centerline of Highway One. This condition will ensure the sign is not erected within the Caltrans right-of-way and reiterates a similar condition that was required by Mendocino County in their original approval of the project.

In conclusion, although the proposed development will be somewhat visible from Highway 1 and the Caltrans vista point to the north, visual impacts have been minimized by requiring dark earthtone colors for the structure and requiring lighting restrictions. Furthermore, Special Condition No. 4 will eliminate the tasting room and ensure that the development maintains the agricultural character of its surroundings and remains subordinate to the landscape. Special Condition No 5 limits the building height to 18 feet, and limits the size, height, location, and number of on-site signs. The Commission thus finds that the proposed development, as conditioned, is consistent with LUP Policies 3.5-1, 3.5-3, and 3.5-5, and with Zoning Code Sections 20.376.045, 20.504.015, 20.504.020, 20.504.035, and 20.504.040, as the project has been sited and designed to minimize visual impacts, will be subordinate to the character of its setting and will provide for the protection of coastal views.

5. Environmentally Sensitive Habitat Area and Water Quality.

LUP Policy 3.1-2 states in applicable part:

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

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

LUP Policy 3.1-7 states in applicable part:

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

LUP Policy 3.1-10 states in applicable part:

*Areas where riparian vegetation exists, such as riparian corridors, are environmentally sensitive habitat areas and development within such areas shall be limited to only those uses which are dependent on the riparian resources. All such areas shall be protected against any significant disruption of habitat values by requiring mitigation for those uses which are permitted. No structure or development, including dredging, filling, vegetation removal and grading, which could degrade the riparian area or diminish its value as a natural resource shall be permitted in the Riparian Corridor except for...*

LUP Policy 3.1-11 states that:

*The implementation phase of the LCP shall include performance standards which shall be consistent with California Coastal Commission's Statewide Interpretive Guidelines for Wetlands and other wet Environmentally Sensitive Habitat Areas dated February 4, 1981, and required mitigation measures applicable to allowable development within Riparian Corridors. These standards and measures shall minimize potential development impacts such as increased runoff, sedimentation, biochemical degradation, increased stream temperatures and loss of shade caused by development. When development activities require removal or disturbance of riparian vegetation, replanting with appropriate native plants shall be required at a minimum ratio of 1:1. (emphasis added)*

The Coastal Zoning Code reiterates and implements the policies pertaining to environmental sensitive habitat areas that are contained in the Land Use Plan.

Kibesillah Creek flows along the southern periphery of the subject parcel. The proposed project has been sited approximately 150 feet away from the upland extent of the riparian vegetation along the creek. Since the proposed development will be located more than 100 feet from the riparian habitat, the Commission finds that the proposed development will not have any direct impact on the nearby environmentally sensitive

habitat area or its buffer. However, the risk of sedimentation to the creek is relatively high, given that the construction of the proposed barn will require significant excavation and soil disturbance on an area that slopes moderately steeply and continuously down to Kibesillah Creek. Additionally, construction of the barn will generate significant quantities of excavated overburden materials. Without the implementation of adequate Best Management Practices (BMPs) the project poses a significant threat of sediment discharge to the on-site environmentally sensitive habitat areas. To ensure that the project is consistent with LUP policy 3.1-11 and will not result in excessive or increased sedimentation to the creek, the Commission attaches Special Condition No. 5, which requires the applicant to submit a revised erosion control plan for review and approval of the Executive Director prior to issuance of the permit. Special Condition No. 5 also requires that the applicant conduct the development in accordance with the approved erosion and runoff control plans.

The Commission also attaches Special Condition No. 4, which requires recordation of a deed restriction stating that all future development on the subject parcel, including expansion of the existing test plot vineyard on the property, would require an amendment to the permit. This condition will allow future development to be reviewed to ensure that the project will not be sited where it might have significant adverse impacts on environmentally sensitive habitat areas.

An existing vineyard on the parcel was authorized under the original permit approved by the Commission for the winery as a test plot vineyard. The applicant is not proposing to expand the vineyard as part of the current application but has indicated that she may wish to do so in the future. Expansion of the vineyard could result in its own water quality impacts on Kibesillah Creek if not properly managed. For example, the grading of the soil to convert open field to vineyard could lead to sedimentation impacts and the application of fertilizers and pesticides could lead to such chemicals being washed into the creek with stormwater runoff. Special Condition No. 4 will allow future development to be reviewed to ensure that significant adverse impacts of the proposed development on environmentally sensitive habitat areas are avoided or minimized.

Therefore, the Commission finds that the proposed development, as conditioned, is consistent with LUP policies 3.1-2, 3.1-7, 3.1-10, and 3.1-11 as no development is proposed within the environmentally sensitive habitat itself, because an adequate buffer will be maintained that will not be developed, and because Special Condition No. 3 will minimize the potential for development impacts such as increased runoff and sedimentation.

6. Public Access

Projects located between the first public road and the sea and within the coastal development permit jurisdiction of a local government are subject to the coastal access policies of both the Coastal Act and the LCP. Coastal Act Sections 30210, 30211, and 30212 require the provision of maximum public access opportunities, with limited exceptions. Section 30210 states that maximum access and recreational opportunities shall be provided consistent with public safety



needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. Section 30211 states that development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. Section 30212 states that public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, adequate access exists nearby, or agriculture would be adversely affected.

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.*

LUP Policy 3.6-27 states that:

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

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 there 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.

However, in its application of these policies, the Commission is limited by the need to show that any denial of a permit application based on these sections, or any decision to grant a permit subject to special conditions requiring public access, is necessary to offset a project's adverse impact on existing or potential public access. No trail traverses down the steep and rugged bluff face to the ocean below. In addition, the property is fenced and there is no continuous trail along the bluff edge extending from the north end of the property to the south. Foot paths to the bluff edge extend from the winery, but there is no evidence indicating that these trails are used by anyone other than winery employees and guests. No member of the public has come forward to claim that they have used the property for access purposes. Furthermore, the expansion of the winery will not draw large numbers of people to the shoreline so as to significantly increase the demand for public access. Moreover no other impacts of the proposed winery expansion on existing or potential public access have been identified. Therefore, the Commission finds that the proposed project, which does not include provision of public access is consistent with the public access policies of the Coastal Act and the County's LCP.

Staff has discussed with the applicant whether she would propose to provide public access as part of her development. The applicant has stated that she supports the concept of a continuous coastal trail and would be willing to consider a lateral easement or public trail through the eastern portion of her property, but only if adjacent landowners would also agree to allow access through their properties. The applicant has indicated to Commission staff that she is not willing, at this time, to voluntarily provide public access through the site to facilitate the coastal trail as part of the proposed development.

7. California Environmentally Quality Act.

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

conditioned to be found consistent with the Mendocino County LCP and the public access and recreation policies of the Coastal Act. Mitigation measures which will minimize all adverse environmental impacts have been required.

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

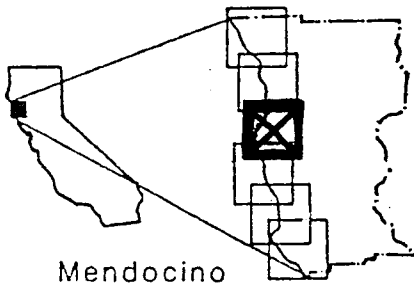
Exhibits:

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. County guidelines for determining building heights
13. Correspondence from County staff
14. Applicants Correspondence

ATTACHMENT A

Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.



Mendocino

EXHIBIT NO. 1

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

OTTOSON

LOCATION MAP

To Westport

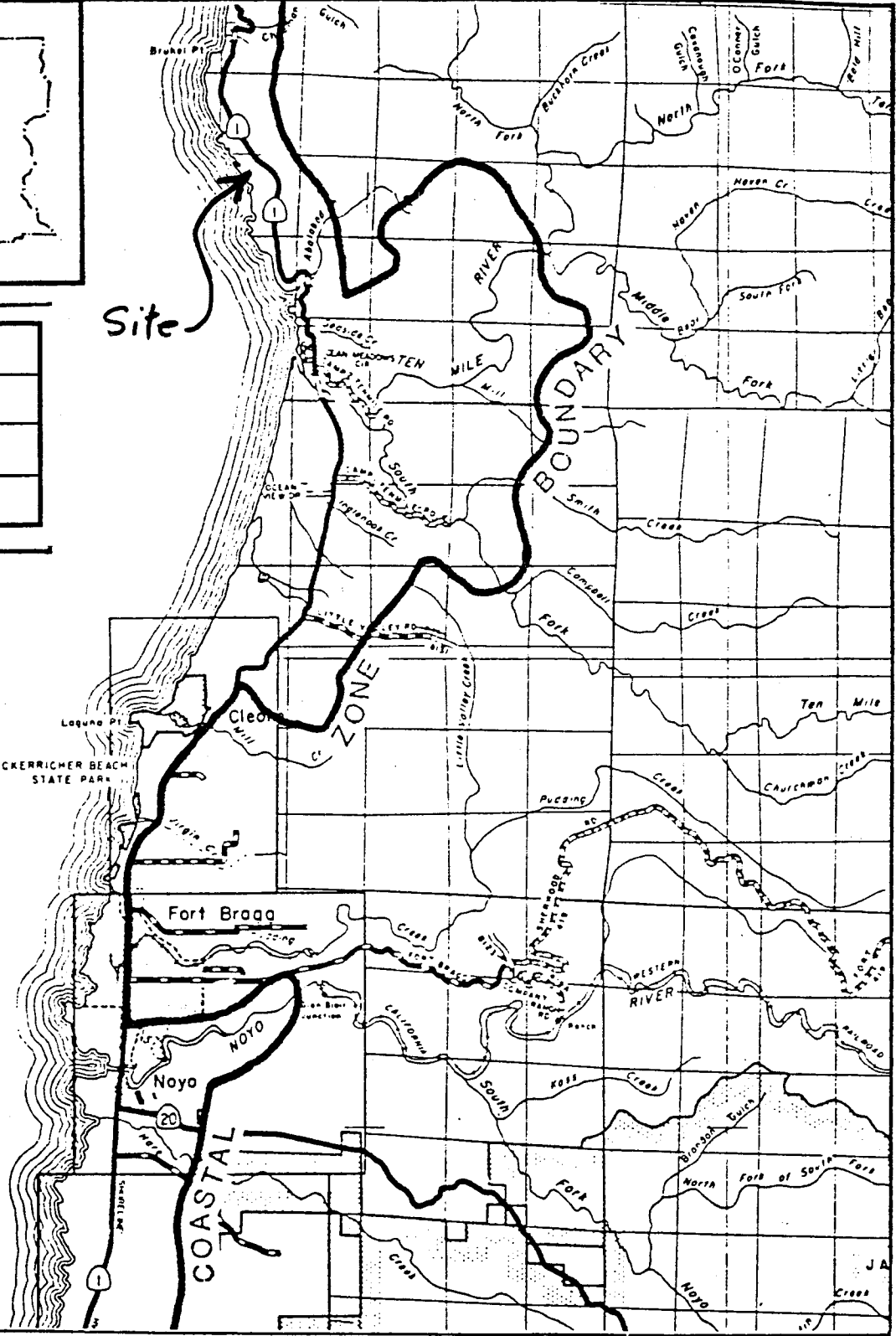
Site

BOUNDARY

ZONE

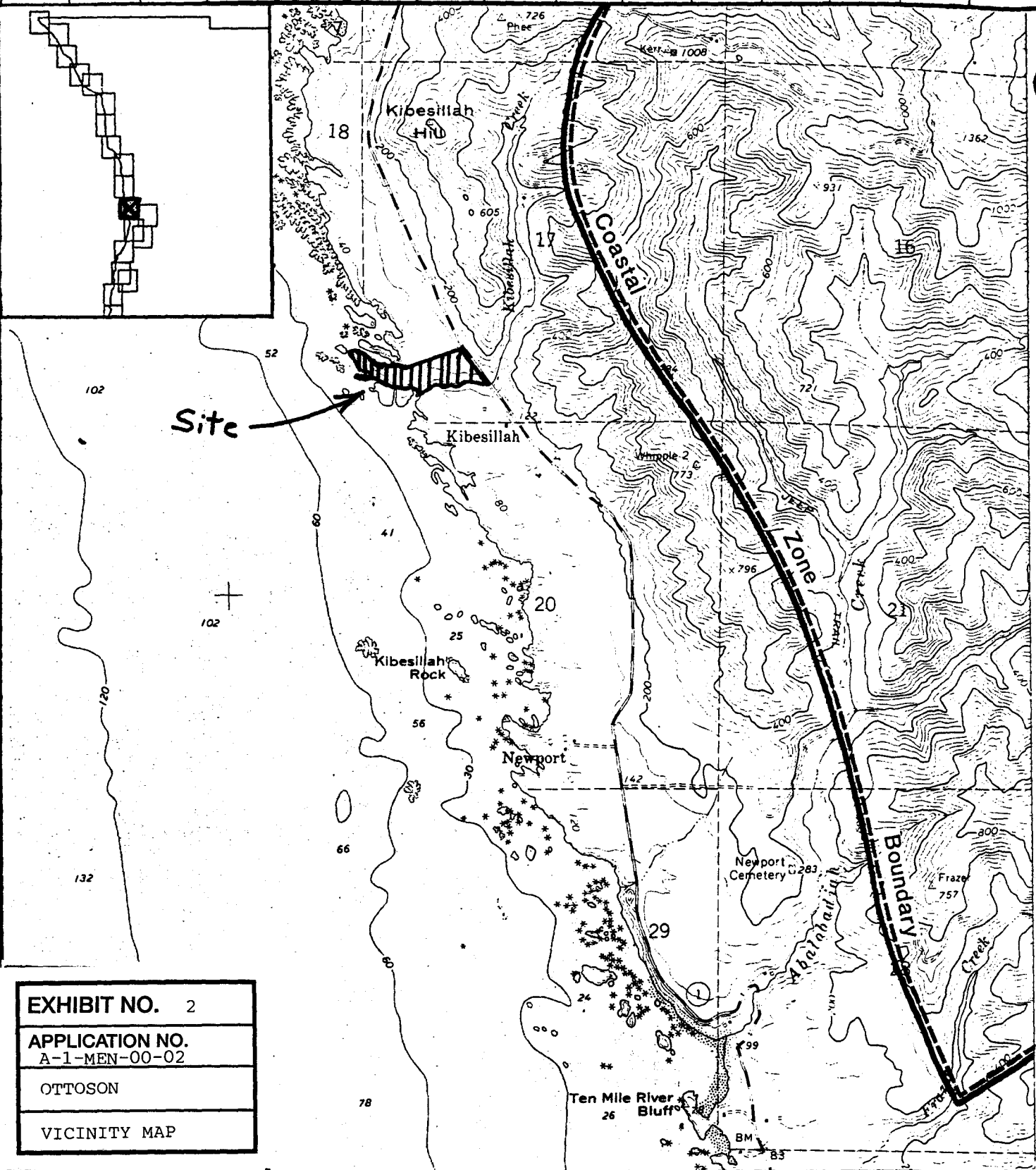
PACIFIC

COASTAL



A B C D E F G H I J K L M N O

1  
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17



Site

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



2'-0" BLUFF

50'-0" NEW DRAIN

RETENTION WALL

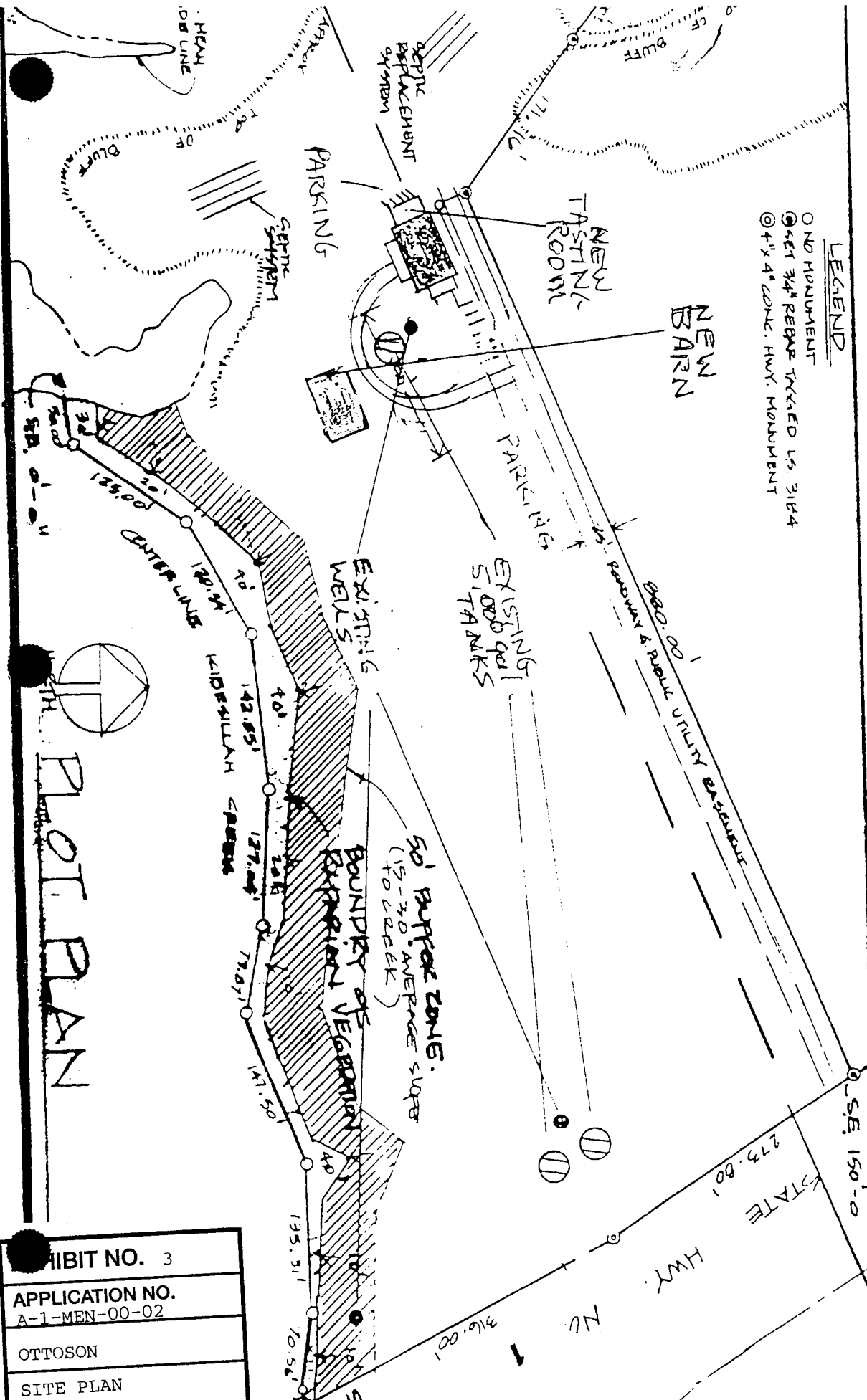
SECTION A-A

**LEGEND**

○ NO MONUMENT

⊙ SET 3/4" REBAR TYPED IS 3184

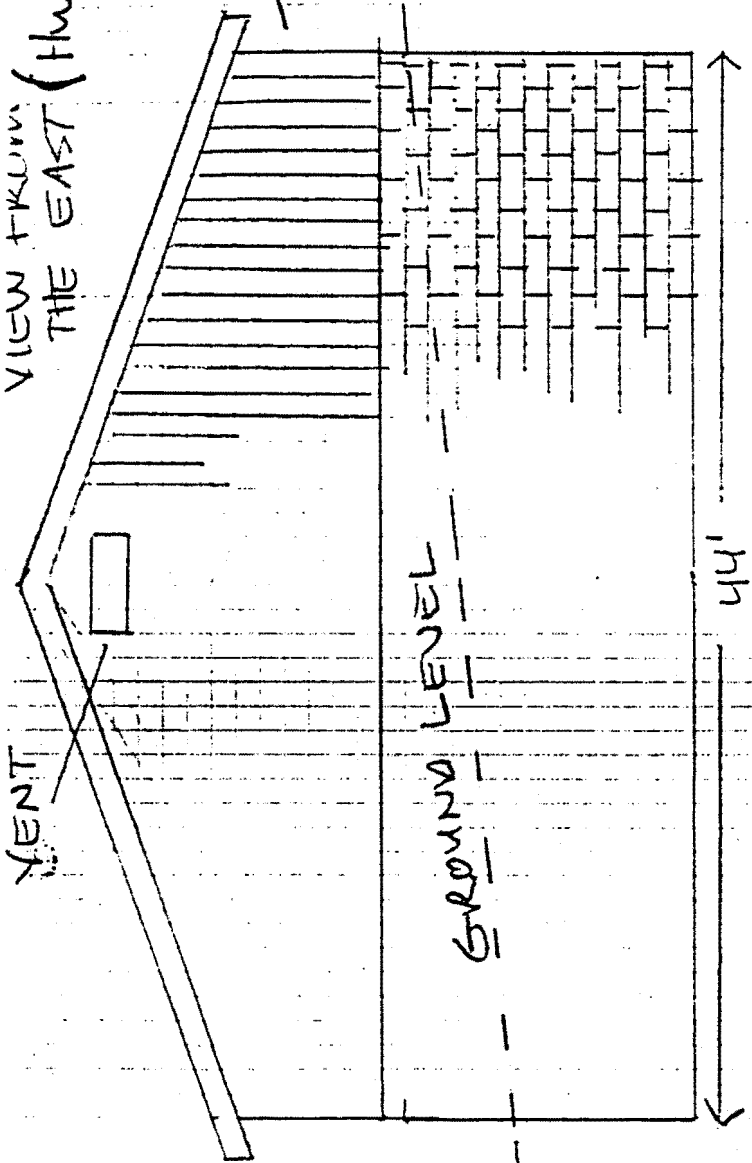
⊙ 4" x 4" CONC. HWY. MONUMENT



PLAT PLAN

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

VIEW FROM THE EAST (Hwy 1)



WOOD SIDING

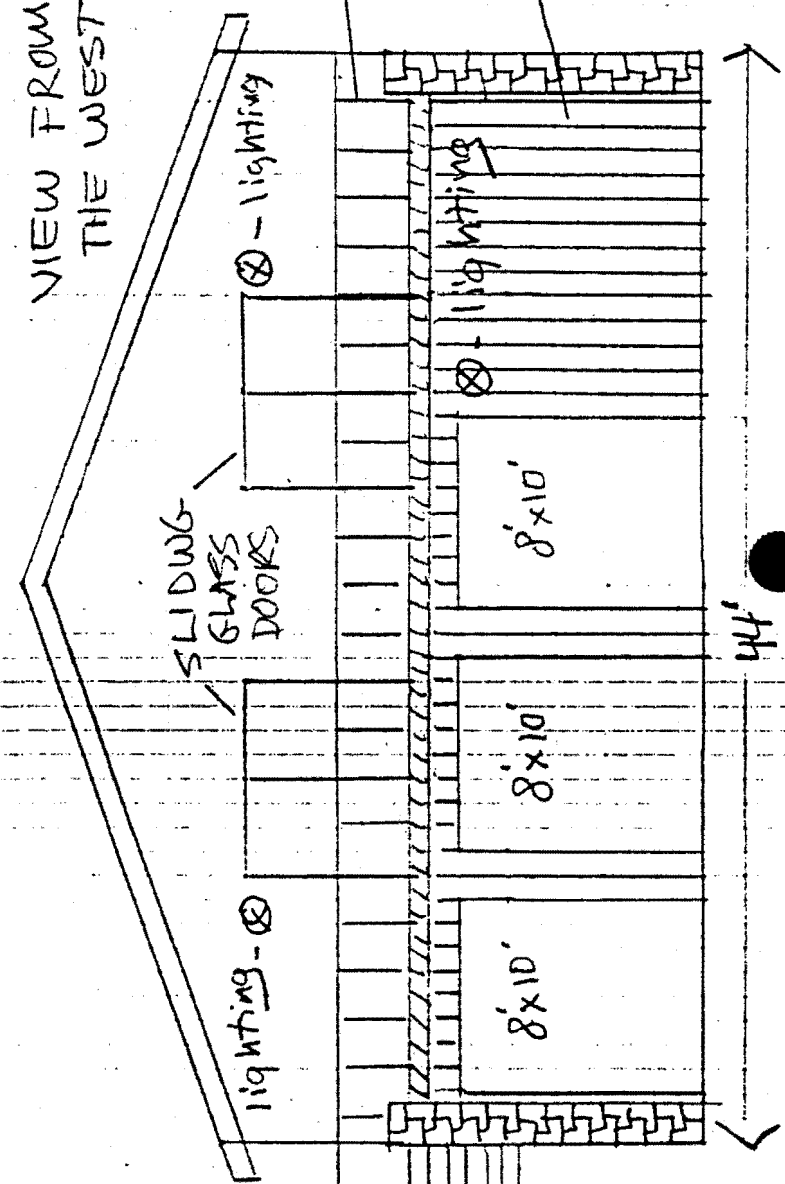
APPROX. TOP OF SLOPE

GROUND LEVEL

44'

CONCRETE BLOCK FOUNDATION (SIMILAR TO EXISTING STRUCTURE)

VIEW FROM THE WEST



DECK

WOOD SIDING

SLIDING GLASS DOORS

lighting - ⊗

lighting - ⊗

8'x10'

8'x10'

8'x10'

STAIRS

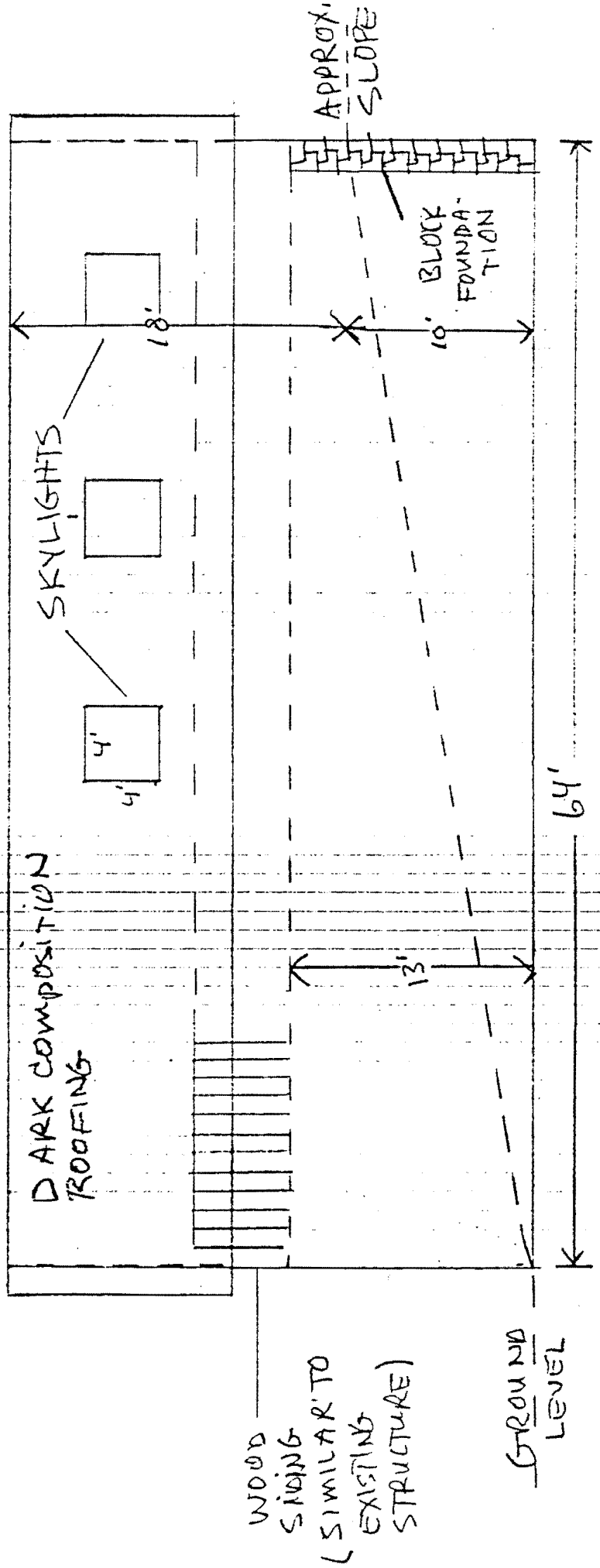
44'

28' (SAME AS EXISTING STRUCTURE)

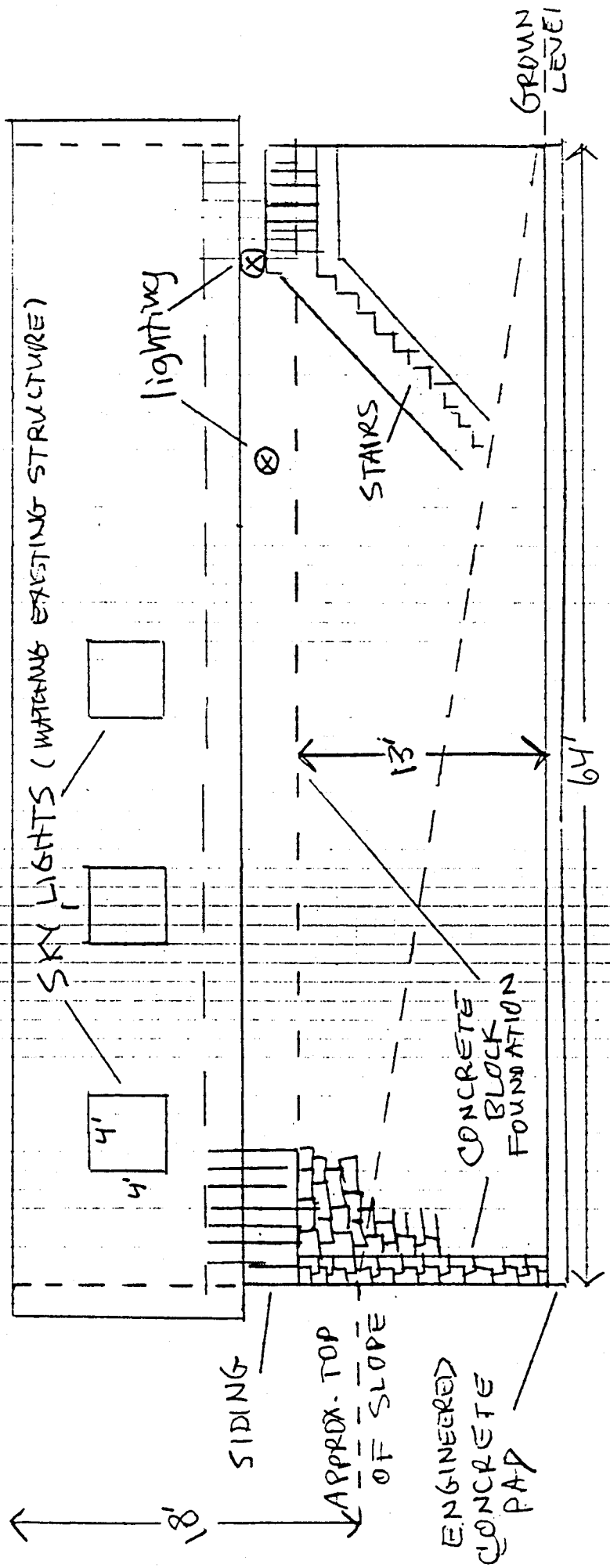
EXHIBIT NO.	4
APPLICATION NO.	A-1-MEN-00-02
OTTOSON	
ELEVATIONS	



WINE STORAGE BARN - SOUTH VIEW

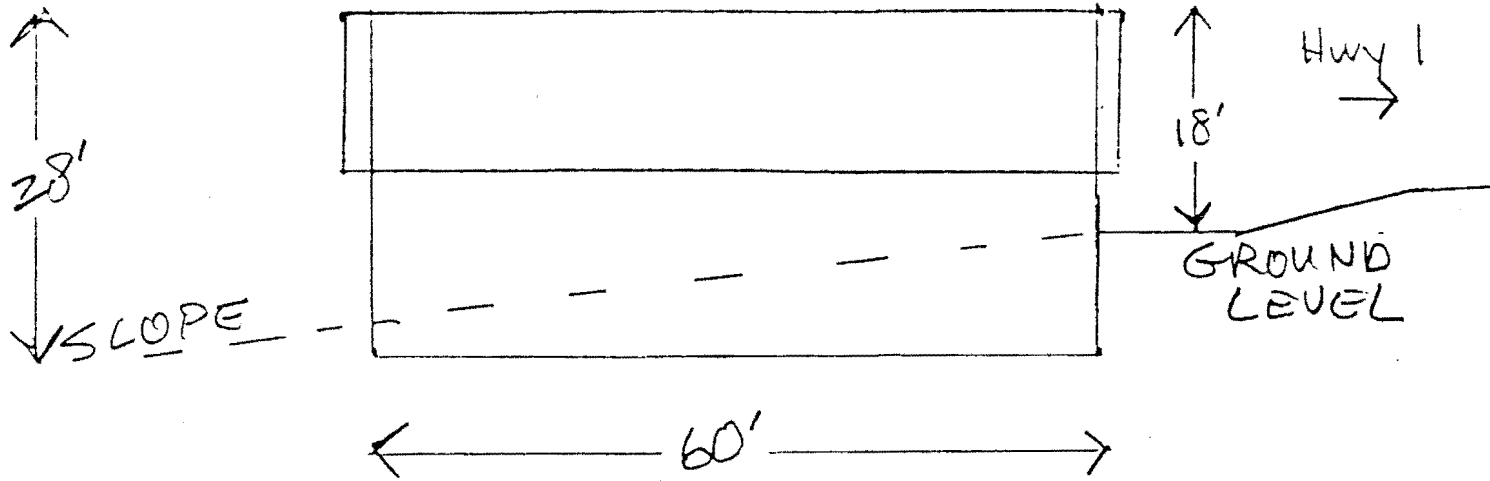


# WINE STORAGE BARN - NORTH VIEW



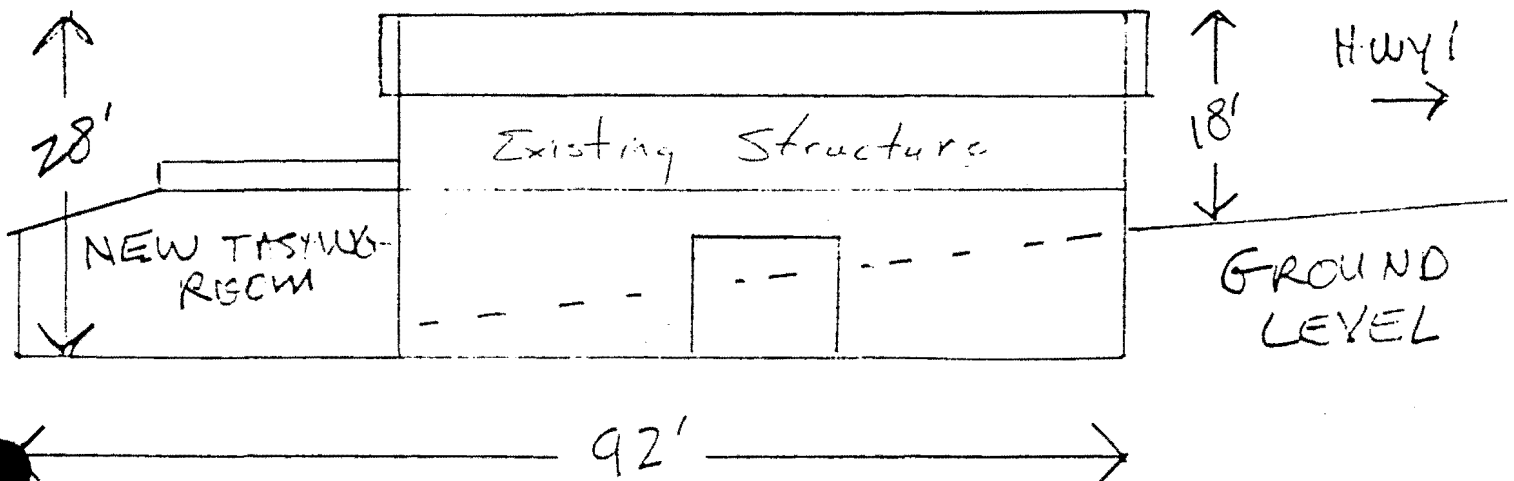
# ELEVATIONS

NEW BARN      N  
                  ↑

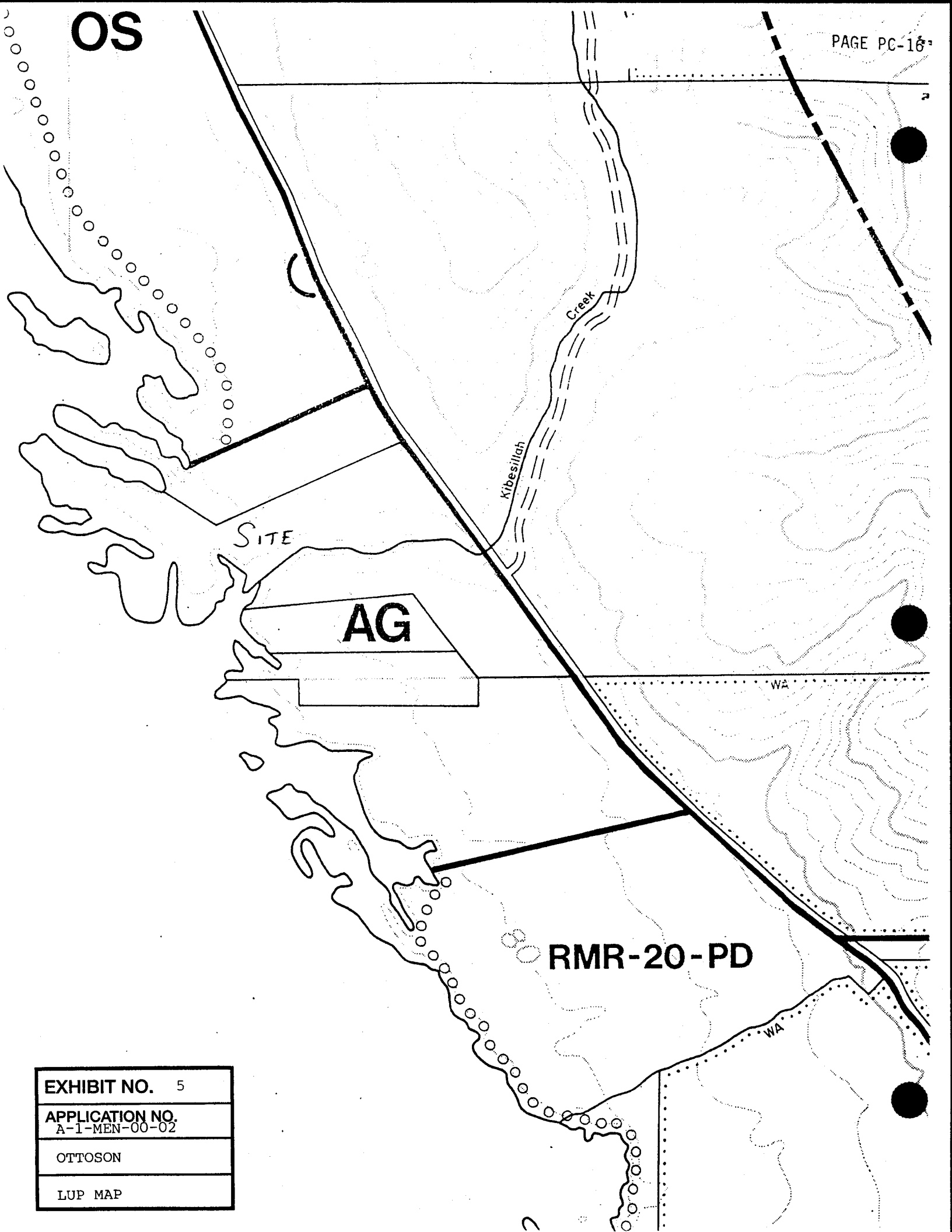


NEW  
TASTING ROOM / EXISTING HOME  
AND DRY STORAGE AND CELLAR

N  
↑      1" = 16'



OS



SITE

AG

RMR-20-PD

EXHIBIT NO. 5

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

OTTOSON

LUP MAP

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: MENORINO 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, A 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#15-370.
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-1-00-02

DATE FILED: JANUARY 12, 2000

DISTRICT: NORTH COAST

H5: 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

c.  Planning Commission

b.  City Council/Board of Supervisors

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 33000 Hwy 1 Ft. BRAGG 954  
AGENT: ROBERT ZIMMER 33000 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  
MENDOCINO CA. 95460

(3) RIXANNE WEHREN  
PO BOX 349  
ALBION CA. 95410

(4) JUDITH VIDEVER  
3200 CAMP 2 TEN MILE RD.  
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 Act 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 <sup>proposed for</sup> an area which is among the most pristine of the entire California coast. A 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

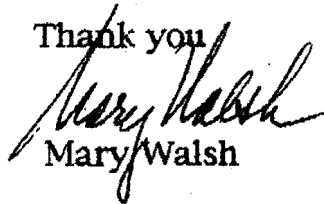
The issue of public access was also inadequately addressed in the decision. The LCP includes a designation of the California Coastal Trail along the side of Highway 1 wherever it is not otherwise located along the blufftop. The planning department overlooked this requirement of dedication of a 15' easement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

A handwritten signature in cursive script that reads "Mary Walsh".

Mary Walsh



**COUNTY OF MENDOCINO**  
**DEPARTMENT OF PLANNING AND BUILDING SERVICES**

501 LOW GAP ROAD • ROOM 1440 • UKIAH • CALIFORNIA • 95482

RAYMOND HALL, DIRECTOR  
Telephone 707-463-4281  
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pbs@co.mendocino.ca.us  
www.co.mendocino.ca.us/planning

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

<b>EXHIBIT NO.</b> 7
<b>APPLICATION NO.</b> A-1-MEN-00-02
OTTOSON
<b>APPEAL REFERENCE:</b> 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.



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

e-MAIL on 1-11-99

**STAFF REPORT FOR COASTAL DEVELOPMENT USE PERMIT**

#CDU 16-99  
OCTOBER 21, 1999  
PAGE PC-1

**OWNER:** SALLY OTTOSON  
33000 HWY 1  
FORT BRAGG CA 95437

**AGENT:** ROBERT ZIMMER  
33000 HWY 1  
FORT BRAGG CA 95437

**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.

**TOTAL ACREAGE:** 15 acres

**ZONING:** AG

**ADJACENT ZONING:** North and South: AG  
East: RL  
West: Ocean

**GENERAL PLAN:** AG

**EXISTING USES:** Winery, residence and vineyard

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

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

**SUPERVISORIAL DISTRICT:** 4

**GOV. CODE 65950 DATE:** January 17, 2000

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

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

60 feet and is 30 feet, 6 inches at [its] point above finished grade. Approximately 2,600 square feet of floor space exists on each level with half 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."

**PROJECT DESCRIPTION:** The applicant proposes to expand an existing winery facility on property located approximately nine miles north of Fort Bragg, lying just north of Kibesillah Creek, on an ocean front parcel. Existing on the property is a two story winery/residence structure, which contains 2,640 square feet on each story. 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. Attached to this existing building, the applicant proposes to build a wine tasting room, office, lab and bath comprising approximately 767 square feet, as well as 1,504 square feet of dry storage area. This addition would be located westerly of the existing building and would be screened from view. Additionally, the applicant proposes to build a detached two story barn structure, comprised of a 2,640 square foot first story (to contain an 880 square foot three car garage and equipment storage area, and a 1,760 square foot barrel storage area), and an 880 square foot "barn loft" that the applicant states will be used for general equipment and records storage, and eventually for a winery business office. The lower floor of this structure will also be obscured by the cut slope.

Also existing on the site are three wells and three 5,000 gallon water storage tanks, as well as a septic system. Additionally there are three small structures, with a combined total square footage of 284 square feet, which house a tool shed and a sauna and changing room.

The applicant states that, with this increase in facilities, they wish to increase production of the winery by 50%, to approximately 5,000 cases per year.

The project site lies on a 15 acre ocean front parcel that lies between Highway One and the ocean. The southern boundary of the site is Kibesillah Creek. The canyon formed by the creek is vegetated with a dense growth of riparian brush and small trees. Approximately two thirds of the easterly portion of the site gradually slopes away from the highway down toward the ocean. Approximately one-third of the westerly portion of the property lies upon a lower terrace sloping toward the southwest. On the upper terrace, the small (approximately 2 1/2 acres) vineyard exists which contains predominately pinot noir grapes. Aside from the vineyard, this area is vegetated with grasses providing little natural screening. The lower terrace is approximately 10 to 20 feet below the upper area, and 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. The westerly edge of the property consists of rocky bluffs along jagged ocean inlets, with some small sea caves.

The surrounding area is relatively undeveloped, with open views to the ocean on the west and steeply rising mountain slopes to the east. The applicant also owns the neighboring 7.5+- acre parcel which lies immediately north of the project site.

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.

Attached as Exhibit A is a statement from the applicant regarding the application.

**ENVIRONMENTAL REVIEW:** The following areas of concern have been identified by staff upon completing the environmental review for the project:

Earth (Items 1A, 1B and 1G): Pursuant to Coastal Element Policy 3.4-7, the applicant has submitted an "Engineering Geologic Reconnaissance," by BACE Geotechnical which assesses the bluff retreat rate at the project



site. The policy requires that buildings be set back a sufficient distance to provide a 75 year life span for structures. The report states that the retreat rate is fairly slow at this location, approximately 0 to 5 inches per year. The report concludes:

“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 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 two, rounded of to 65 feet, should be adequate.”

The report does note that the proposed barn location is “...underlain by varying thicknesses of weak native and fills soils.” The report states that this situation can be mitigated by extending foundations into firm soil or rock beneath the weak soils.

Based on the above, staff would recommend that the new construction be required to conform, at a minimum, to the recommended standards cited within the report prepared by BACE Geotechnical (See Condition Number A-1).

Plant Life (Item 4A): A botanical survey was done by Gordon McBride to assess potential impacts of the development on the protected riparian habitat that is located around Kibesillah Creek. Dr. McBride's survey notes that a 50 foot buffer was previously established by an earlier survey done when the winery/residence was under permit review. The survey notes that the riparian habitat area is “well developed and healthy.” He also notes that the owner has already fenced the area and it is well protected. The 50 foot buffer originally established well serves in the protection of the area and the proposed development is beyond that area. Observance of this setback buffer previously established will address this concern (See Condition Number B-1).

Wildlife (Item 5A, 5B, 5C and 5D): As noted above, a protected habitat exists on site. However, no rare or unique plant or animal has been identified on the site and the habitat will continue to be protected by the buffer area established. Further, the Department of Fish and Game has not responded to the project referral. Regardless, due to the increased building areas and potential increased human presence on site, staff does not believe that the project can be found to have no impact on wildlife resources within the broad definitions provided within Section 711.4 of the Fish and Game Code. Therefore, staff believes the filing fees required by that regulation would be applicable to this project (See Condition Number A-2).

Aesthetics (Items 7A and 17A): The new construction will be completed to match the existing building; i.e., concrete block lower floor with a stonework trim; the second floor covered with redwood siding, and a concrete tile roof. All new external lighting will be located on the north or western sides, and will be downcast and shielded.

The project site is located within a designated highly scenic area, and is in an area of sparse development. As noted within the project description, the addition to the existing structure will be on the westerly side and will be screened by that structure as well as the topographic relief. The two story (28-foot-tall) barn structure will be similarly screened by the cut slope separating the upper and lower terraces of the project site. While 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.” Given the topography of the site, with the upper terrace providing a natural screening of the improvements, and the fact that the existing structure is actually greater than 28 feet in height, staff does not perceive a conflict with the building height standards.

The applicant also proposes to establish a 40 square foot sign to be located 150 feet from the centerline of the highway on site. The sign would state “Pacific Star Winery.” Given the otherwise uncluttered, open, natural surroundings, a sign of 5 feet by 8 feet would appear quite large, and out of character, in staff's opinion. While the size of the sign would technically meet the standards permitted by the code for a free-standing sign, staff believes it would be appropriate to limit the square footage of the sign to a much smaller sign through this discretionary review process. Staff would suggest that the sign be required to be made of wood, not be illuminated in any fashion, and be limited to no more than 16 square feet.

Conditions Number B-2 and B-3 are provided to insure compliance with the above.

Land Use (Item 8A): As noted, the property is zoned AG which does not permit a winery within the Coastal Zoning Ordinance. Aside from the desire to increase production, an obvious result of the project will be, from the applicant's perspective, increased direct or retail sales from the site itself through the tasting room. As the Commission knows, many within the County have become concerned about the more "commercial," (versus agricultural) nature of many wineries and their tasting rooms. Within some pre-application discussions with this applicant, staff cautioned that the project should keep close to the agricultural basis of the project, as opposed to including within the tasting facility any retail sales of T-shirts, food sales, or other accessory or incidental items that have become "standard fair" at some wineries. By tying the expansion to the on-site agricultural resource, staff believes the project would be more consistent with the underlying zoning.

As staff understands, this winery predominately imports and blends grapes grown in other areas, as the 2 ½ acres of grapes grown on-site do not provide an abundant crop. A statement submitted from the Farm Advisors office, attached as Exhibit B, describes the merit of the grapes grown on site, as well as the project. However, staff remains concerned that the use of the site as a tasting facility, in this otherwise "non-commercialized," rural region of the coast, could lead to a change in the character of the area. The amount of grapes grown on-site would clearly not support the typical winery, nor can the limited vineyard produce a significant percentage of the 5,000 case expanded production limit which has been requested. If the vineyard does, as the Farm Advisor's letter suggests, produce a potentially unique and valuable agricultural product, and therefore the winery is truly connected to the on-site agricultural resource, then staff might be able to find that the project would be appropriate in this location. If, however, the site is merely convenient for marketing purposes to the traveling public, and the grapes grown on-site are not truly connected (do not contribute significantly) to the overall project, then it would seem appropriate for this facility to be located in a commercial or industrial zone. There is also the question of whether or not a providing a tasting room along the north coast, along Highway One is appropriate for the traveling public, however, this is probably beyond the scope of a planning concern and is more of a social issue. Staff did contact the California Highway Patrol who stated that the issue of proliferation of wine tasting facilities was not a significant concern in terms of traffic safety.

The following Mendocino County Code Sections are pertinent to the proposal:

Section 20.336.035(B) (the definition of Packaging and Processing: Winery) states:

Crushing of grapes and fermentation, storage, and bottling of wine from grapes grown on or off the premises. Said use type also includes tasting rooms 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. [Emphasis Added]

This use type, while included within the list of Coastal Agricultural Use Types, is not allowed in any zoning district within the Coastal Zone.

Section 20.356.005 (The "Intent" of the AG zoning district) states:

This district is intended to encompass lands within the Coastal Zone which are suited for and appropriate for retention in agricultural uses including lands under Agricultural Preserve contracts, lands having present or future potential for significant agricultural production, and contiguous or intermixed smaller parcels on which non-compatible uses could jeopardize adjacent agricultural lands.

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.

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](mailto: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 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.

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*

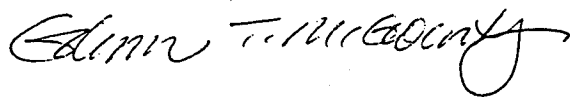
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attractive and productive landscapes. Giving Pacific Star Winery a direct outlet to consumers makes their operation much more financially viable, and preserves commercial agriculture in the coastal zone.

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*

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## CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA

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

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

**TU-9C**

FILED Feb. 25, 1988  
 49th DAY: April 15, 1988  
 180th DAY: Aug. 26, 1988  
 Staff: James J. Muth  
 Staff Report: March 7, 1988  
 Hearing Date: May 10, 1988  
 Document No.: 2683P /



## STAFF REPORT: REGULAR CALENDAR

PROJECT DESCRIPTIONAPPLICANT: Jake & Sally GoldenbergPERMIT NO. 1-88-19PROJECT LOCATION: 33000 Highway One, north of Kibesillah Creek, Westport area, Mendocino County, APN: 015-370-11PROJECT DESCRIPTION: Construction of a winemaking barn with studio apartment, well, septic system, driveway and test plot for grapes, and 5,000 gallon water storage tankLOT AREA 15 acres ZONING A-1BLDG. COVERAGE 2,600 sq.ft. (LCP) PLAN DESIGNATION AG-60PAVEMENT COVERAGE 12,000 sq.ft. PROJECT DENSITY 1 unit/15 acresLANDSCAPE COVERAGE 1,000 sq.ft. HEIGHT ABV. FIN. GRADE 30'-6"LOCAL APPROVALS RECEIVED: Well and septic permits, LCP consistency review state highway encroachment permitSubstantive File Documents: Mendocino County Coastal Land Use PlanSTAFF 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.

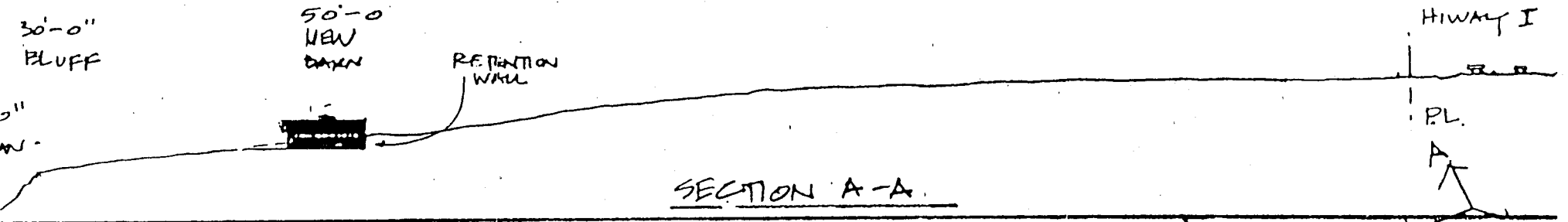
The map I was supplied on my visit was the initial plot plan for the site, dated 11-23-87. It appears, from the information on that map, that a botanical survey of the site has been carried out, but the name of the botanist is not available. Apparently, as a part of that botanical survey, the riparian 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.

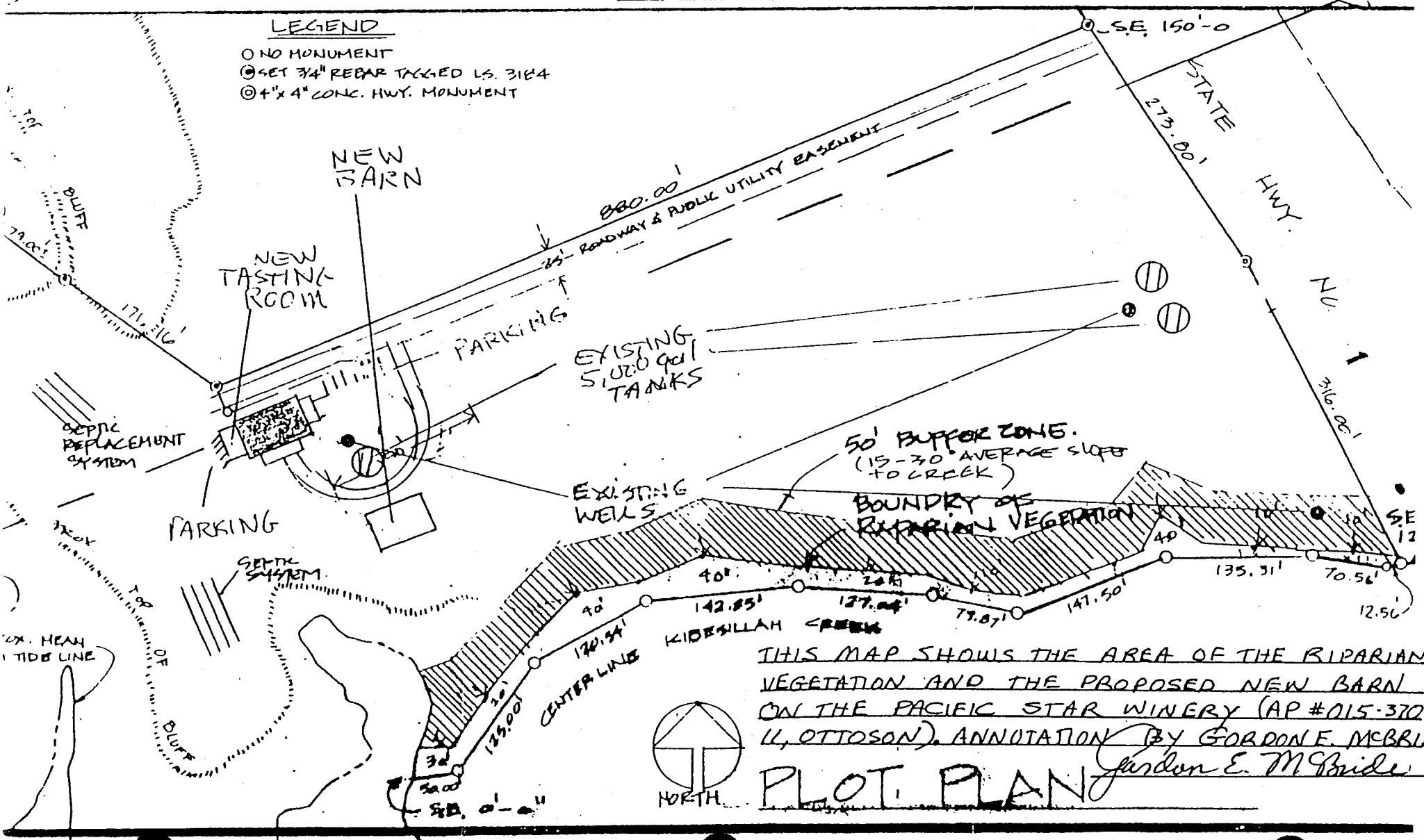
Please do not hesitate to contact me if you have questions.

Sincerely,

*Gordon E. McBride*  
Gordon E. McBride



- LEGEND**
- NO MONUMENT
  - ⊙ SET 3/4" REBAR TAGGED L.S. 3124
  - ⊕ 4"x 4" CONC. HWY. MONUMENT



THIS MAP SHOWS THE AREA OF THE RIPARIAN VEGETATION AND THE PROPOSED NEW BARN ON THE PACIFIC STAR WINERY (AP #015-370-11, OTTOSON). ANNOTATION BY GORDON E. McBRIDE

*Gordon E. McBride*  
**PLOT PLAN**



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

<b>EXHIBIT NO.</b>	11
<b>APPLICATION NO.</b>	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.

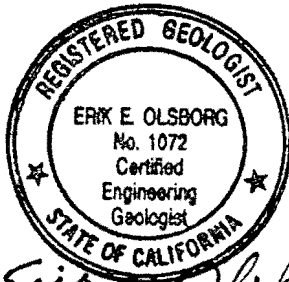


Ms. Ottoson  
April 22, 1999  
Page Seven

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,



*2/28/99*

*Erik E. Olsborg*

Erik E. Olsborg  
Engineering Geologist - 1072

EEO/PRD/mab

4 copies submitted





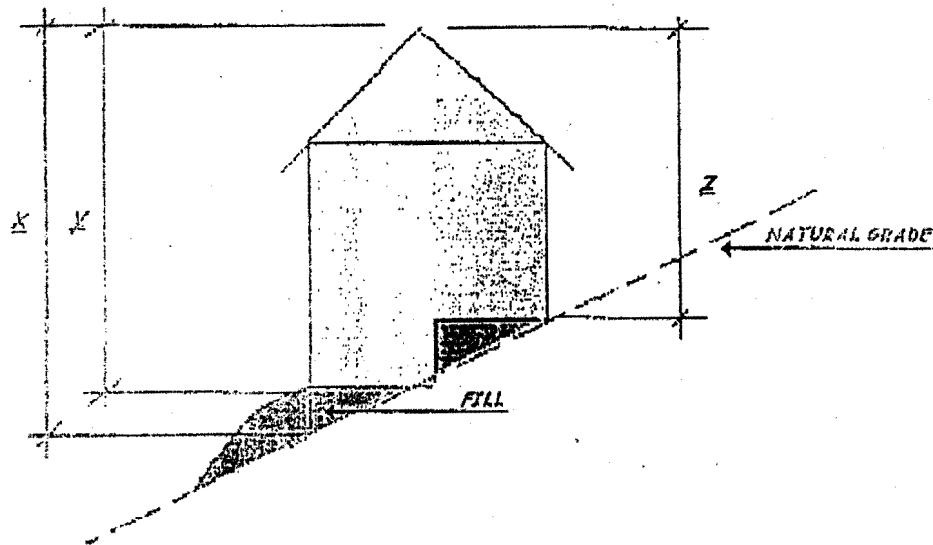
RAYMOND HALL  
DIRECTOR

TELEPHONE  
(707) 864-2078

COUNTY OF MENDOCINO  
DEPARTMENT OF PLANNING AND BUILDING SERVICES

MAILING ADDRESS:  
799 SO. FRANKLIN  
FORT BRAGG, CA 95437

## BUILDING HEIGHT MEASUREMENTS IN THE COASTAL ZONE



*IN HIGHLY SCENIC AREAS THE BUILDING HEIGHT  
IS THE AVERAGE OF X+Z ((X+Z)/2)  
(MEASURED FROM THE THE NATURAL GRADE)*

*IN NON-HIGHLY SCENIC AREAS THE BUILDING HEIGHT  
IS THE AVERAGE OF Y+Z ((Y+Z)/2)  
(MEASURED FROM THE FINISH GRADE)*

EXHIBIT NO. 12

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

OTTOSON

HEIGHT GUIDELINES



**COUNTY OF MENDOCINO**  
**DEPARTMENT OF PLANNING AND BUILDING SERVICES**  
 501 LOW GAP ROAD · ROOM 1440 · UKIAH · CALIFORNIA · 95482

RAYMOND HALL, DIRECTOR  
 Telephone 707-463-4281  
 FAX 707-463-5709  
 pbs@co.mendocino.ca.us  
 www.co.mendocino.ca.us/planning

March 7, 2000

**RECEIVED**  
 MAR 13 2000  
 CALIFORNIA  
 COASTAL COMMISSION

BOB MERRILL  
 CALIFORNIA COASTAL COMMISSION  
 710 E STREET, SUITE 200  
 EUREKA CA 95501

RE: Permit #A-1-MEN-00-002

Dear Mr. Merrill:

I have just begun reading the staff report for the above references case. The staff report is based in part, upon the premise "... that a non-conforming use can only be expanded to use of lesser intensity...".

Actually Section 20.480.025(a) of the Mendocino County Zoning Code stated that "existing legal non-conforming uses... may be expanded or reduced to a lesser intensity...". Does this correction to the Commission staff interpretation of the County Code change or modify your recommendation?

Sincerely,

Raymond Hall  
 Director

RH:sb

cc: Sally Ottoson  
 Alan Falleri  
 Case File #CDU 16-99

<b>EXHIBIT NO.</b>	13
<b>APPLICATION NO.</b>	A-1-MEN-00-02
<b>OTTOSON</b>	
<b>COUNTY CORRESPONDENCE</b>	

PATRICIA A. CAMPBELL  
Supervisor  
Fourth District



Office Phone: (707) 463-4221  
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Home Address:  
P.O. Box 24  
Fort Bragg, CA 95

COUNTY OF MENDOCINO  
BOARD OF SUPERVISORS  
501 Low Gap Road • Room 1090  
Ukiah, California 95482

**RECEIVED**

**MAR 15 2000**

**CALIFORNIA  
COASTAL COMMISSION**

March 13, 2000

CALIFORNIA COASTAL COMMISSION  
NORTH COAST OFFICE  
SARA WAN, CHAIR  
45 FREMONT ST, SUITE 2000  
SAN FRANCISCO, CA 94105-2219

Dear Ms. Wan and Commissioners:

On December 13, 1999 the Mendocino County Board of Supervisors approved the Pacific Star Winery application, Permit #A-1-MEN-00-002, with conditions, on a 5-0 vote.

It is not always easy to get a unanimous vote on land use issues from the current Mendocino County Board of Supervisors. Because we found the application was well planned and presented minimal impact, the Board also passed unanimously a dismissal of the usual Department of Fish and Game fees. It was apparent at the hearing that the applicant had worked closely with our Planning Staff in the design process to be certain that the project conformed to our Local Coastal Plan.

Also, please note that Ray Hall, our Director of Planning and Building, has written a letter to the Commission staff and asked them for a change or modification in their recommendation based on his correction of the incorrect interpretation of the Commission's North Coast Staff regarding the expansion of legal non-conforming use in the AG Zone of Mendocino County.

Our Board viewed this application appropriate for the existing land use, and no one spoke in opposition at the hearing. Having visited the site prior to the application, I feel comfortable with our decision. Supervisor Colfax put in the public record that our approval of this legal non-conforming expansion of use did not set a precedent for other applications in the future.

I urge you to deny the appeal.

Sincerely,

A handwritten signature in cursive script that reads "Patricia Campbell".

Patricia Campbell

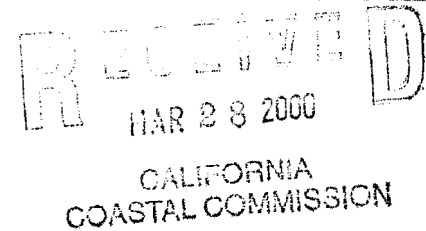


COUNTY OF MENDOCINO  
DEPARTMENT OF PLANNING AND BUILDING SERVICES  
501 LOW GAP ROAD · ROOM 1440 · UKIAH · CALIFORNIA · 95482

RAYMOND HALL, DIRECTOR  
Telephone 707-463-4281  
FAX 707-463-5709  
pbs@co.mendocino.ca.us  
www.co.mendocino.ca.us/planning

March 23, 2000

SALLY OTTOSON and ROBERT ZIMMER  
33000 NORTH HIGHWAY ONE  
FORT BRAGG CA 95437



Re: Response to inquiries by the Coastal Commission

Dear Ms. Ottoson and Mr. Zimmer,

This is written in response to your inquiry regarding questions raised by the Coastal Commission and/or their staff regarding the County of Mendocino's analysis of your recent use permit request that was approved by the County (#CDU 16-00). As I understand the issues, there are three basic questions, for which I would provide the following response.

1. The Commission, or staff, questioned how the County measures building height. Building height is defined within Mendocino County Code Section 20.308.025(L), which states, "Building, Height Of" means the vertical distance from the average ground level of the building to the highest point of the roof ridge or parapet wall." Therefore, when calculating building height the following procedure is utilized:

The average grade is calculated by subtracting the lowest elevation of the ground under the building from the highest elevation of the ground under the building, and dividing by two, then, adding that value to the lowest elevation. The building height allowed by zoning is added to that average elevation. No part of the building roof or parapet wall can extend above that height. (See attached example).

2. The Commission, or staff, questioned why "story poles" were not required. The building height within the AG zoning district is 28 feet. However, within highly scenic areas west of Highway One, eighteen (18) feet is the maximum height, "unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures." The existing structure, permitted by the Coastal Commission itself (Permit #1-88-19) is described by that permit as being "30 feet 6 inches at [its] point above finished grade." It, like the proposed new barn, has the lower portion of the structure screened by the existing topography, which places the improvements on a lower terrace on the western edge of the property. The existing structure appears from the highway to be a one story structure. The addition of the tasting room would be attached to the west side of the lower story of the existing structure, and would therefore be screened by both topography and the existing structure. The new barn would be built on the same lower terrace, therefore would be similarly screened as the existing structure, and would also be lower (28 feet maximum height) than the existing structure. Therefore, the existing structure provides a similar comparison for visual assessment, and in staff's opinion, given the distance from the highway and the topographic relief providing additional screening, does not create any significant issue and would be consistent with the above noted policy.

I would also point out, on the two copies of the Coastal Commission's staff report that I have seen, pages PC 2 through PC 4 of the County staff's report are missing from the packet. These pages do

address visual and other issues which might better explain the County staff's position relative to this project.

3. The Coastal Commission, or their staff, questioned why the County did not require any dedication of public access. On page PC 5 of the County's staff report, we do note that 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." This comment stems from a referral response letter contained within the file, dated July 9, 1999, from Neva Sotolongo Transportation Planner for Caltrans, who states:

"Also, the location map included in the project packet indicates a new public access across a Caltrans easement. This is not mentioned in any of the project description; we would like to verify that no new accesses are being proposed across Caltrans easements. Please contact us with further information."

It is my recollection, (unfortunately I did not document the phone call) that I called Ms. Sotolongo and discussed this issue, and was advised that Caltrans did not in any way wish to see this access on their property developed. However, more importantly, the proposed trail does not extend to this property.

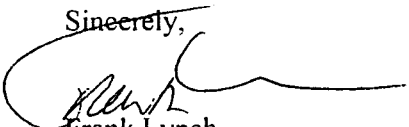
Within the County staff report, we also discuss Land Use Plan Policy 3.2-14, which states:

"Where land west of Highway 1 are designated Rangeland or Agriculture, no vertical or lateral access shall be required at this time if it is found that the effects of the proposed access could not be mitigated and therefore would adversely affect the agricultural operation. Should the Agricultural use of the land be changed or augmented by use or uses other than Agriculture then offers for vertical and lateral access shall be obtained consistent with Policy 3.6-5."

County staff would comment that public access across the land that we wished to see further developed with agricultural uses as part of the entitlement could raise conflicts with those intended agricultural uses. Further, by permitting tasting facilities on-site, access would be provided to the ocean, beyond the agricultural operation, to a specific area devoted toward the visitor service (wine tasting). Access beyond this limited area could interfere with the on site agricultural activities which we perceive to be the use that should be primary on property zoned for agriculture.

I believe that Raymond Hall, Director of this department, has already provided a letter to the Coastal Commission regarding what this department believes to be their misinterpretation of policies related to the expansion of non-conforming uses. Therefore, I will not devote more energy to rebut that issue. I do hope that this information is helpful in your response to the Coastal Commission's concerns. Should you have any questions, please feel free to call.

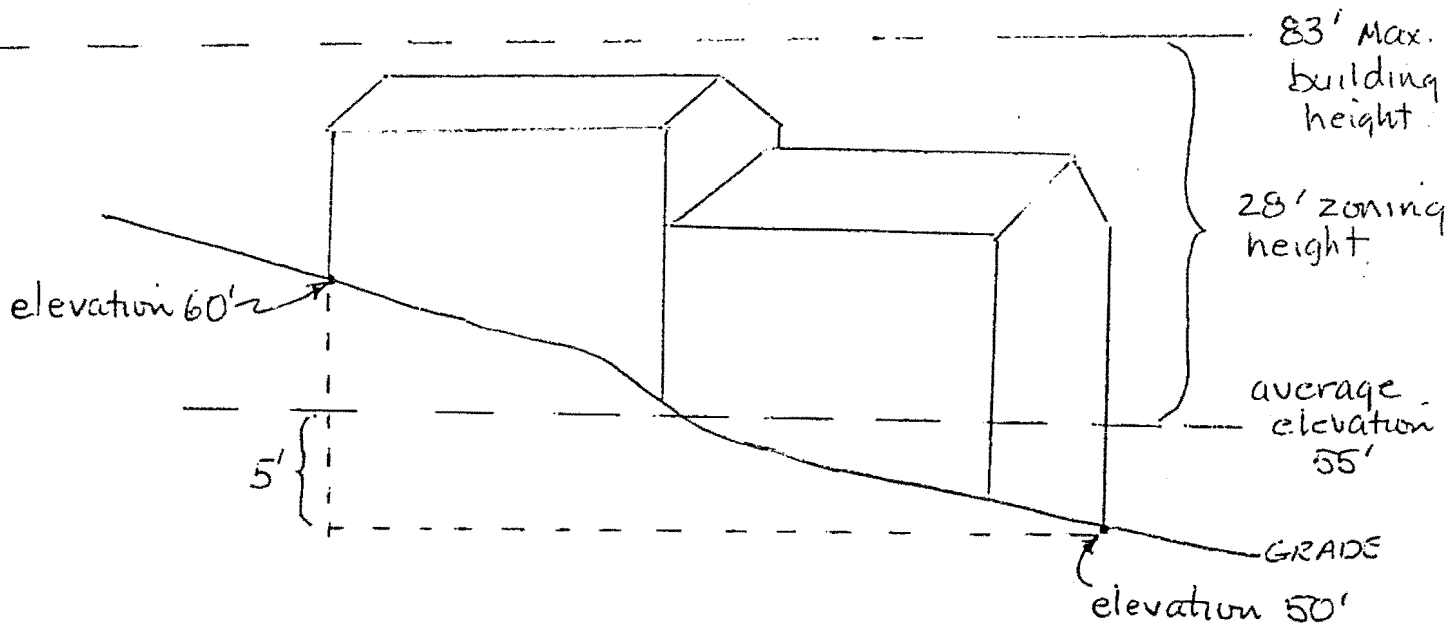
Sincerely,

  
Frank Lynch  
Supervising Planner

cc: file  
Coastal Commission



# Computing Maximum Building Height



$$60' - 50' = 10' \div 2 = 5'$$

$$5' + 50' = 55' \text{ average grade}$$

$$55' + 28' = 83' \text{ max. building height}$$

# 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.	14
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 4<sup>th</sup> 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 Mackerriker 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.

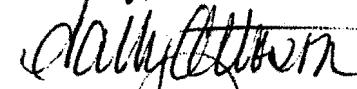
See Illustration D - Map of Public Access Areas

#### **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 must 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.  
B1





View from the road

N



Westport.

PACIFIC  
STAR  
WINERY

10. Kibesillah Rock Co.

1

Orca Inn

Tenmile River

8. Ten Mile Inn

Mackerncher  
State Park

7. Cleone Gardens Inn

Cleone Campground 4.

6. Pump House Gym

Cleone Market 3.

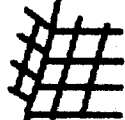
5. Watkins Sand & Gravel

Purple Rose Restaurant 2.

• Cleone

1. Riccochet Riding Stables

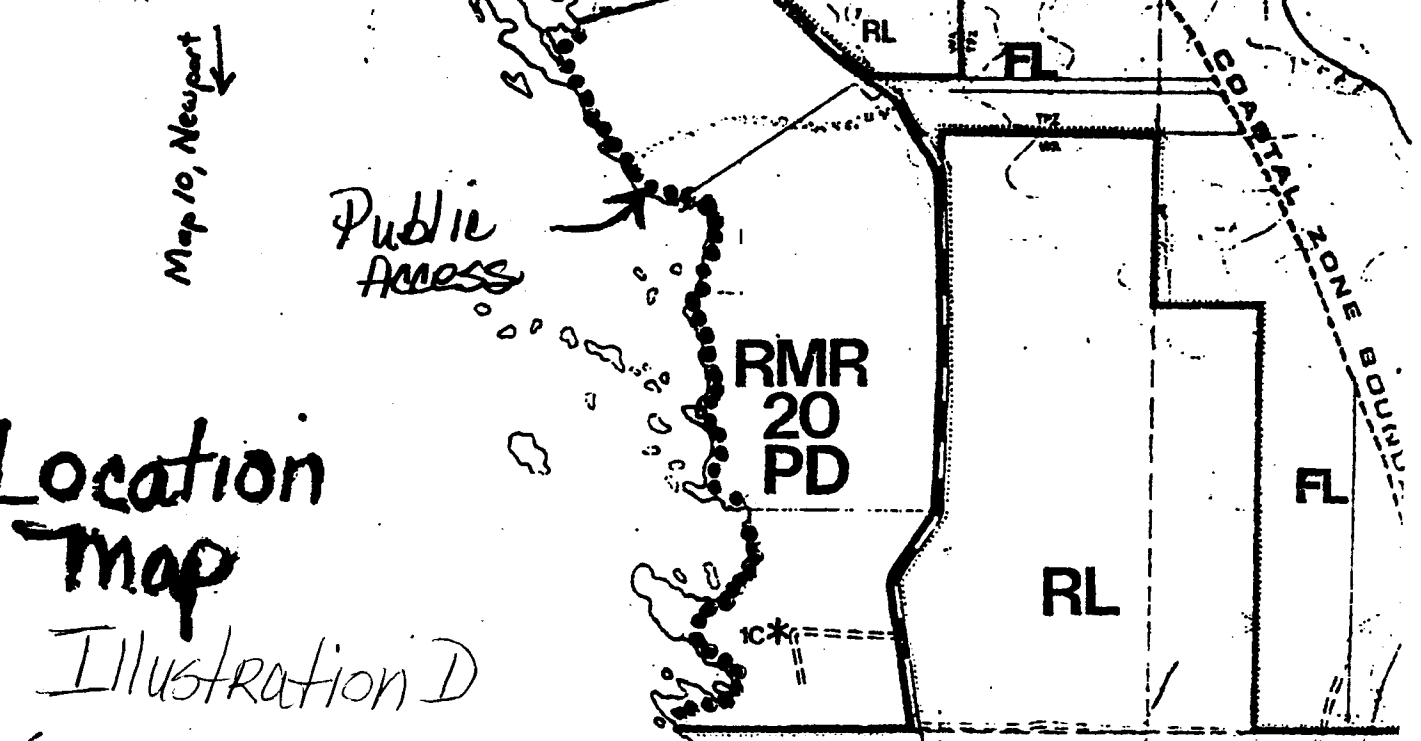
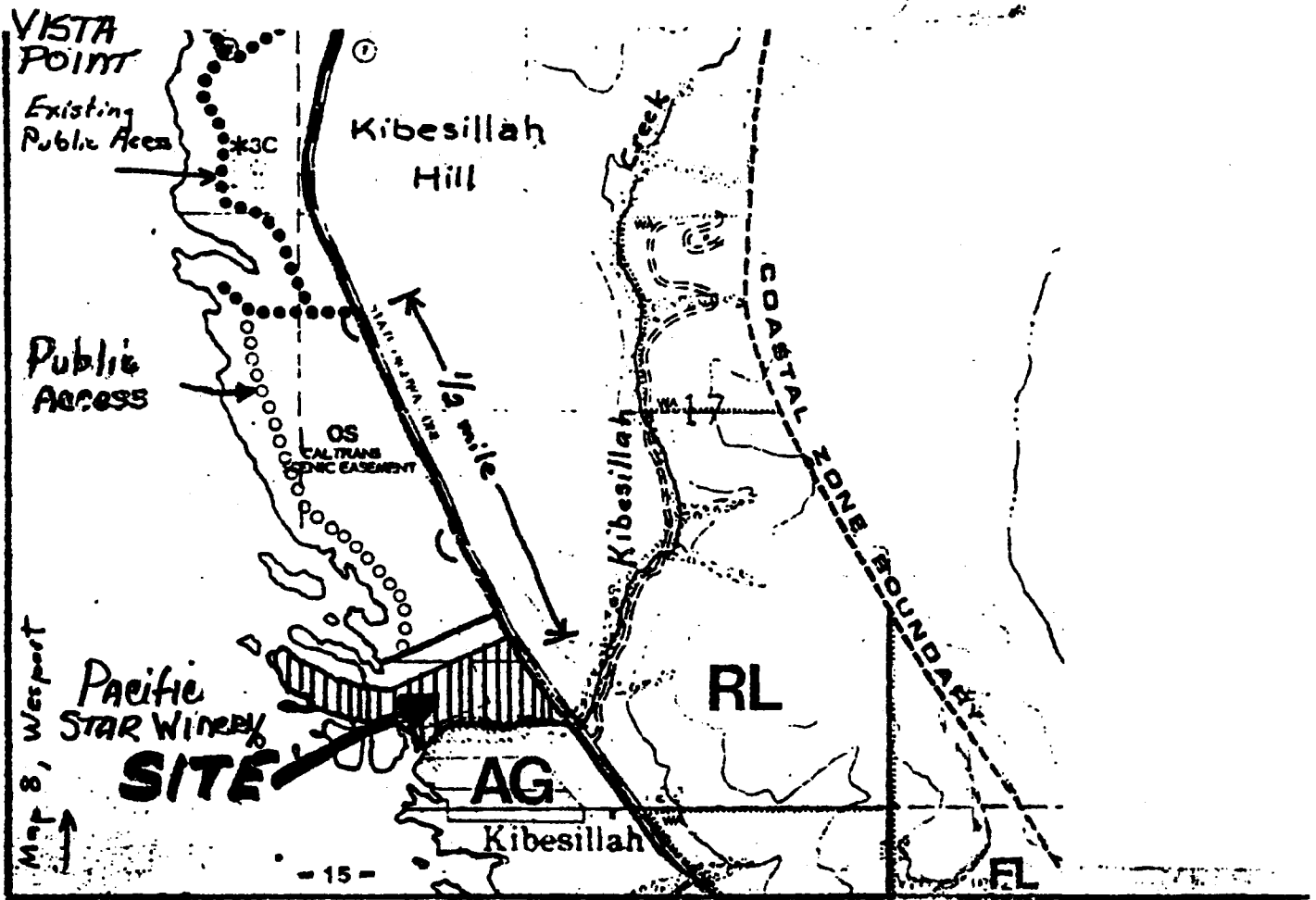
Fort Bragg



Noyo River

20

Illustration C



Location  
Map  
Illustration D

THE ENTIRE COASTAL ZONE FROM THE TEN MILE RIVER ESTUARY INCLUDING ITS WOODED SLOPES, WETLANDS, DUNES, AND OCEAN VISTAS, VISIBLE FROM HIGHWAY ONE! NORTH TO THE HARDY CREEK BRIDGE IS DESIGNATED A HIGHLY SCENIC AREA, EXCEPT WESTPORT BEACH SUBDIVISION

EXHIBIT NO. 3  
APPLICATION NO.  
1-88-19  
Mendocino County  
L.U.P. Maps 23 + 10

FEB-18-2000 10:34 FROM: K S O 11014501011 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

<b>FAX TRANSMITTAL</b>	<b>Date: Feb. 18, 2000</b>	<b>pg. 1 of 2</b>
<b>To:</b>	Eric Oppenheimer California Coastal Commission	
<b>Fax:</b>	(707) 445-7877	<b>From:</b> 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 Meather, 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. 15
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**

DISTRICT OFFICES:

1040 MAIN STREET, SUITE 101  
NAPA, CA 94559  
(707) 228-9888

317 THIRD STREET, SUITE 1  
EUREKA, CA 95601  
(707) 289-9595

POST OFFICE BOX 2208  
FORT BRAGG, CA 95437  
(707) 862-0933

CAPITOL OFFICE:

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



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

DISTRICT OFFICES:  
1040 MAIN STREET, SUITE 101  
NAPA, CA 94559  
(707) 226-0888  
317 THIRD STREET, SUITE 1  
EUREKA, CA 95501  
(707) 298-0886  
POST OFFICE BOX 2208  
PORT BRAGE, CA 95437  
(707) 882-0888  
CAPITOL OFFICE:  
415 CANNON HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 225-3311

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



03-14-2000 11:47AM

707 961 1995

P.01

**RECEIVED**

MAR 14 2000

CALIFORNIA  
COASTAL COMMISSION

California Coastal Commission,

W115  
A-1-00-002

March 15, 2000

Re: appeal of Mendocino County approval of an application to expand an existing winery operation to include a tasting facility and a 28 foot tall 2,640 square foot and a 2,271 square foot addition.

Friends of the Ten Mile concur with the Commission staff report for this project and with the motion to deny the project.

Located as it is in a highly scenic area of the Coastal Zone, the project is in violation of the County LCP regarding protection of visual resources and location of new development.

Additionally it violates the Mendocino Zoning Code Sections 20.356.010 and 20.356.015 which do not permit wineries in the Coastal Zone.

Regarding the visual impacts, this project violates LCP Policies 3.5-1 in that it degrades views to and along the ocean, nor is it visually compatible with the character of the surrounding areas. The applicant's contention that the excessive height of the building will not be visible is misleading. Presently, as seen driving, bicycling or walking along Highway One from the north and especially from the south the full height and length of the existing building blocks views of the ocean, thus degrading a nearly pristine ocean view. The above LCP Policy also states that in visually degraded areas the planning emphasis should be on restoring, and enhancing visual quality, not further degradation.

Considering that this wide open coastal terrace, and most of the surrounding area is undeveloped natural and spectacular landscape, the vineyard and the winery buildings are already out of character with their surroundings. The addition of even more structures and over half a dozen more parked cars against the backdrop of the open terrace and the ocean will be exceptionally degrading.

We would like to point out Mendocino County's lax policy on conducting visual analyses in the Coastal Zone. Again, no

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adequate visual analysis was performed for this project: no story poles, no artistic site rendering, no computer mock-up--all common and effective tools in conducting such analysis. The applicant has at least made some attempt to provide a visual sense of what the project might look like. However, this too is misleading in that their apparent use of a standard 55 millimeter camera lens makes the structures look much farther away than they actually are.

Additionally, this proposal violates LCP Section 3.9-1 which states that "new development be [located] in or in close proximity to existing areas able to accommodate it..."

Page 117 of the LCP lists "areas that can accommodate additional development such as...Cleone, Noyo, South Fort Bragg" and describes these areas as "in close proximity to existing developed areas..."

Contrary to the applicant's description of this area as developed there is as yet no commercial development from Cleone to Westport--12 miles. This is one of the longest stretches of uncommercialized coastline accessible in the County. Fort Bragg, the only source of vital services, is over 9 miles south.

The Coastal Element of the Mendocino County General Plan describes the Rockport to Little Valley Road Planning Area, locale of the proposed project, as follows:

...nearly all of it [is] visible from Highway One. This stretch is grand in scale, containing spectacular settings of land and sea as the highway climbs to provide sweeping views of the Lost Coast and drops to narrow gulches near the shore... This plan has given protection to the scenic and rural qualities of this area by ruling out creation of major new sub-divisions and by the retention of range lands and timberlands in large parcels and by designating specific areas between Hardy Creek and The Ten Mile River as highly scenic areas...

Please ensure this special area will remain for all to enjoy.

*Judith Vidaver*  
Judith Vidaver

**Robert W. and Arlita Smith  
970 Maricao Place  
San Ramon, CA 94593  
925 838-4663  
Fax 925 552-7056**

**TO: CALIFORNIA COASTAL COMMISSION  
NORTH COAST DISTRICT OFFICE  
710 E. STREET, SUITE SUITE 200  
EUREKA, CA 95501**

**RE: PACIFIC STAR WINERY  
Permit # A-1-MEN-00-002**

**DATE: 4/24/00**

Dear Sirs,

This is in support of the application of Pacific Star Winery for additional space to store equipment and wine.

Having been to the winery, it seems that there is PLENTY of open water for everyone to look at.

If additional space is increasing "commercialization", I question whom we are saving the coast for: a few residents that live there or the residents of the entire state and country who visit this lovely winery that enhances their visit of the scenic coast.

Sincerely,

*RWSmith*

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**CALIFORNIA  
COASTAL COMMISSION**

