

**CALIFORNIA COASTAL COMMISSION**

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

MAILING ADDRESS:  
 P. O. BOX 4908  
 EUREKA, CA 95502-4908



## RECORD PACKET COPY

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 Staff: Randall Stemler  
 Staff Report: September 28, 2001  
 Hearing Date: October 11, 2001  
 Commission Action:

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: **NCR 78-CC-807-A1**

APPLICANT: **KEN HOLLANDER/SHARON KISS**

APPLICANT'S AGENT: Bud Kamb

PROJECT LOCATION: 45431 Greenling Circle, Caspar, Mendocino County  
(APN 118-390-04)

DESCRIPTION OF PROJECT  
PREVIOUSLY APPROVED: Construction of a two-story, 27-foot-high, 3,262-square-foot single-family residence, garage and septic system.

DESCRIPTION OF  
AMENDMENT REQUEST: Remodel and expand the existing residence by converting the existing detached garage and guest room structure into two bedrooms, a bath and a study, connecting the detached structure to the existing house, constructing a new garage and studio workshop addition, and paving a parking area

with a driveway. The proposed new development would increase the originally permitted size of the existing development to 6,900 square feet.

GENERAL PLAN DESIGNATION: Rural Residential

ZONING DESIGNATION: Rural Residential, 5-acre (1 acre minimum)  
Floodplain (FP)

LOCAL APPROVALS RECEIVED: Mendocino County LCP Consistency  
Review

SUBSTANTIVE FILE DOCUMENTS: (1) CDP# NCR-78-CC-807 (Howell);  
(2) Mendocino County LCP

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**SUMMARY OF STAFF RECOMMENDATION:**

The staff recommends that the Commission approve with conditions, the requested amendment to the coastal development permit granted originally for the construction of a single-family residence, garage and septic system on the blufftop parcel located at 45431 Greenling Circle in the Cabrillo Subdivision in the Caspar area of Mendocino County.

Coastal Development Permit No. NCR-78-CC-807 (Howell) was approved by the Commission on August 10, 1978 with conditions requiring that (1) the height of the residence not exceed that of adjoining residences, or more than 16 feet from the elevation of the frontage road, and (2) that an offer to dedicate a twenty-five (25)-foot-wide lateral blufftop easement be recorded.

The current amendment requests authorization for the conversion of the existing detached garage/guest room structure to two bedrooms, bath and study, connecting this detached structure to the house with a breezeway, constructing a new garage and studio workshop addition, and paving a parking area with an extended driveway. The proposed addition would increase the previously permitted square footage from 3,262 to 6,900 square feet.

Staff is recommending four (4) special conditions to ensure that the project is consistent with the certified LCP. Special Condition No. 1 requires that a deed restriction be recorded stating that the applicants waive any rights that may exist to obtain a coastal development permit in the future for any protective device for the purpose of protecting the new development authorized by the amendment request. The requirement is consistent with LUP Policy 3.4-7 and Coastal Zoning Ordinance Section 20.500.010 that state that the new development shall not in any way require the construction of protection devices. Special Condition No. 2 requires a deed restriction to ensure that the development is limited to one single-family residence consistent

with the requirements of LUP Policy 3.9-1 that limit residential use to one unit per parcel. The condition also prohibits cooking or kitchen facilities in the guest unit. Special Condition 3 requires the submittal of drainage and runoff control plans for facilitating on-site infiltration of stormwater runoff from the development consistent with runoff control standards of Coastal Zoning Ordinance Section 20.492 et seq. Special Condition No. 4 requires use of non-reflective earthtone natural-appearing colors or materials for exterior siding and visible exterior components to ensure that the development will be visually compatible with the surrounding area consistent with the LUP Policy 3.5-1. The condition also requires that all exterior lights be low-wattage, non-reflective, and have a directional cast downward.

As conditioned, staff has determined that the proposed development would be consistent with the certified Mendocino County LCP and public access policies of the Coastal Act.

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**STAFF NOTES:**

**1. Procedure and Background:**

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

Coastal Development Permit No. NCR-78-CC-807 (Howell) was approved by the Commission on August 10, 1978 with special conditions. This original permit approved the development of a two-story, twenty-seven (27)-foot-high, 3,262-square-foot single-family residence, garage and septic system. The permit was approved with conditions that (1) limited the height of the residence to not exceed the height of adjoining residences to ensure that the development would be compatible with the character of development in the area, and (2) required the recordation of an offer to dedicate a lateral bluff top public access easement to ensure that public access would be maximized in the area.

The current amendment requests approval to convert the existing garage and guest room to two (2) bedrooms, bath and study and connect this structure with a breezeway to the existing house. In addition, approval is requested to construct a new garage, studio workshop and paved parking area and driveway.

The development pursuant to the original permit was found to be consistent with the geologic hazard policies of the Coastal Act as the house was approved with a fifty (50)-foot setback from the bluff edge as recommended by the geologic report prepared for the project to ensure that bluff retreat would not affect the development over the life of the structure. The proposed addition would not extend any closer to the coastal bluff than the existing structure. In addition, a new geologic report has evaluated bluff retreat at the site and determined that the setback from the bluff remains adequate to protect the development as amended over an additional 75 year

period. Furthermore, the addition would encroach no closer than the originally authorized development to the lateral public access easement along the bluff edge required by conditions of the original approval and would not otherwise adversely affect coastal access. Moreover, the proposed addition would be no taller than the originally approved residence. Therefore, the Executive Director found that the proposed amendment would not lessen the intent of Coastal Development Permit No. NCR-78-CC-807 as conditioned. Since this amendment request would not result in a lessening or avoidance of the intent of the originally approved permit, the Executive Director accepted the amendment request for processing.

**2. Standard of Review**

The Coastal Commission effectively certified Mendocino County's LCP in October of 1992. Pursuant to Section 30604 of the Coastal Act, after effective acceptance of a certified LCP, the standard of review for all coastal permits and permit amendments for developments located between the first public road and the sea is the certified LCP and the public access policies of the Coastal Act.

**I. MOTION, STAFF RECOMMENDATION AND RESOLUTION:**

The staff recommends that the Commission adopt the following resolution:

**Motion:**

I move that the Commission approve the proposed amendment to Coastal Development Permit No. NCR 78-CC-807-A1 pursuant to the staff recommendation.

**STAFF RECOMMENDATION OF APPROVAL:**

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

**RESOLUTION TO APPROVE THE PERMITAMENDMENT:**

The Commission hereby approves the coastal development permit amendment and adopts the findings set forth below on grounds that the development as amended and subject to conditions will be in conformity with the policies of the certified Mendocino County Local Coastal Program and the public access policies 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 amended 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 amended development on the environment.

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

III. **SPECIAL CONDITIONS:**

1. **No Future Protective Devices**

A. By acceptance of this permit, the applicant agrees, on behalf of themselves and all successors and assigns, that no bluff or shoreline protective devices shall ever be constructed for the purpose of protecting the development approved pursuant to Coastal Development Permit Amendment No. NCR-78-CC-807-A1 from the threat of damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, or other natural hazards in the future. By acceptance of this permit amendment, the applicant hereby waives, on behalf of themselves and all successors and assigns, any rights to obtain a coastal development permit for any protective device for the purpose of protecting the development approved pursuant to Coastal Development Permit Amendment No. NCR-78-CC-807-A1 that may exist under Public Resources Code Section 30235 or under Mendocino County LUP Policy No. 3.4-12 and Mendocino County Coastal Zoning Ordinance No. 20.500.020 (E)(1).

B. **PRIOR TO THE ISSUANCE OF COASTAL DEVELOPMENT PERMIT AMENDMENT NO. NCR-78-CC-807-A1**, 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.

2. **Second Structure Deed Restriction**

A. The following restrictions shall apply with respect to the conversion of the existing garage and guest room into a guest unit consisting of two (2) bedrooms, a bathroom and study.

1. Any rental or lease of the guest unit separate from rental of the main residential structure is prohibited. The guest unit shall not be separately rented, let, or leased, whether compensation be direct or indirect, for any residential or visitor-serving use, vacation home rental, or other purpose.

2. Construction and/or use of all cooking or kitchen facilities are prohibited.

**B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT NO. NCR-78-CC-807-A1**, 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 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 unless the Executive Director determines that no amendment is legally required. No changes in the use of the guest unit shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**3. Drainage and Runoff Control Plans**

**PRIOR TO ISSUANCE OF A COASTAL DEVELOPMENT PERMIT AMENDMENT NO. NCR-78-CC-807-A1**, the applicant shall submit to the Executive Director for review and written approval, final drainage plans and runoff control plans. The plans shall incorporate design elements and/or Best Management Practices (BMPs) which will serve to minimize the volume and velocity of stormwater runoff leaving the developed site, and to capture sediment and other pollutants contained in stormwater runoff from the development, by facilitating on-site infiltration and trapping of sediment generated from construction. The final drainage and runoff control plans shall at a minimum include the following provisions:

- A. Sand bags or hay bales shall be securely installed and maintained around the immediate perimeter of the construction areas including the areas necessary for maneuvering construction equipment. The sand bags or hay bales shall be inspected regularly and sediment removed when it reaches one-third the height of the sand bags or hay bales.
- B. All on-site debris stockpiles shall be covered and contained at all times.
- C. Vegetation at the site shall be maintained to the maximum extent possible and any disturbed areas shall be replanted immediately following project completion.
- D. Drainage from rooftops and other hardscape areas shall be directed into permeable space on-site to facilitate infiltration. Where gutters and downspouts are used, velocity reducers shall be incorporated, to prevent scour and erosion at the outlet.

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

4. **Design Restrictions**

All exterior siding and visible exterior components of the structures authorized pursuant to Coastal Development Permit No. NCR-78-CC-807-A1 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. 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.

5. **Assumption of Risk, Waiver of Liability and Indemnity**

By acceptance of this permit, the applicant acknowledges and agrees (1) that the site may be subject to hazards from erosion and subsequent bluff retreat; (2) 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; (3) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (4) 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, 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.

IV. **FINDINGS AND DECLARATIONS FOR APPROVAL**

The Commission hereby finds and declares:

1. **Site Description & Project Description**

The subject site is an approximate .87-acre blufftop parcel located about one mile southwest of the community of Caspar, in Mendocino County. The parcel is in the Point Cabrillo Subdivision west of State Highway 1 at 45431 Greenling Circle, a private drive. The western portion of the property is bounded by steep coastal bluffs with Coastal Bluff Scrub plant community in the vicinity. This single-family residence located on the coastal terrace is entirely landscaped with manicured lawn and other vegetation. The only possible environmentally sensitive habitat existing in proximity to the proposed development may be a population of Mendocino Paintbrush growing on the bluff face, but it is growing at a location and distance far enough from

the proposed development to protect it from any potential impacts resulting from the project. The proposed project location is not within an area designated as highly scenic. There are no known archaeological resources in the vicinity of the proposed development.

The site is currently developed pursuant to Coastal Development Permit No. NCR-78-CC-807 (Howell). Approval was given August 10, 1978 to "*Construct a single family 2 bedroom home.*" The original permit approved the "*Construction of a two-story, 27' high, 3,262 sq. ft. single family residence, garage and septic system.*" Plans submitted with the application showed a detached garage including a workshop, sewing room, and hobby room with a ½ bath. The house included 2 ½ baths. The house foundation was built fifty (50) feet back from the bluff edge consistent with recommendations of the geologic report prepared by registered geologist J. Riley Jones in April, 1978. The approved building height was twenty-seven (27) feet above the average finished grade, and sixteen (16) feet above the centerline of the street. Incidental improvements included a septic system and connection to various utilities including community water provided by the Caspar South Water Company, PG&E service, cable TV, and underground telephone lines.

The development was approved with two (2) special conditions limiting the height of the structure and requiring public access. Special Condition No. 1 stated that: "*The height of the residence shall not exceed that of adjoining residences or more than 16' from the elevation of the frontage road.*" Special Condition No. 2 included a requirement for recording an approved offer to "*dedicate to the public the right of access, [for] a lateral easement of 25 feet as measured landward from the westerly boundary [of the parcel] ...*" In addition, this Special Condition included a provision that "*If, upon certification, the local coastal program does not contain an access program including the possible acceptance of the applicant's offer of dedication, the Executive Director of the Regional Commission or its successor shall, pursuant to request by the applicant, execute in a form proper for recordation, a document releasing applicant from any further obligation under this offer.*" The section of the subsequently certified LUP discussing Designated Access Points and Recreation Areas, includes Policy 4.6-8 which states that the Offer to Dedicate recorded for this parcel shall be relinquished. LUP Policy 4.6-8 states, "*The offers of blufftop dedication in Caspar South subdivision and Cabrillo subdivision (Foster, Crowther, Hall, and Howell) shall be relinquished because no blufftop trail is proposed and access is available nearby.*" However, the current amendment does not seek release from the offer of dedication nor any changes to the public access condition of the original permit.

The proposed amendment requests approval to convert the existing detached garage and guest room to 2 bedrooms, a bathroom and study; to attach that garage and guest room conversion to the existing house via an enclosed breezeway, and to construct a new garage, studio workshop and parking area with a driveway. The proposed height of the new construction would not exceed an average of twenty-six (26) feet from natural grade. The entire addition/remodel permit amendment adds 3,638 square feet to the previously approved 3,262 square feet, for a requested total of 6,900 square feet of single-family residential development on the parcel. The two-story garage/studio workshop addition expands the house twenty-three (23) feet to the south,



with a footprint of slightly more than 1,100 square feet. This addition includes a garage and studio workshop on the lower level, and a master suite with two bathrooms, hall, and closet on the upper level. The remaining addition is located on the northeast corner and along the east side of the existing house, with an approximate footprint of 670 square feet. These northeast additions include a closet, utility room, foyer, and breezeway, on the lower level, and a study, ½ bath, vestibule, and foyer on the upper level. Included in the overall amendment request is an increase of 436 square feet of currently existing development that is in excess of the originally permitted amount. The existing garage/guest house was built slightly larger than originally approved, and a portion of the amendment request seeks authorization for the size of this structure as built to correct that discrepancy. No further expansion of this structure is proposed other than construction of the breezeway connecting the currently detached structure to the main house.

## 2. Locating New Development

Policy 3.9-1 of the Mendocino County LUP states that new development shall be located in or in close proximity to existing areas able to accommodate it, and shall be regulated to prevent any significant adverse effects, either individually or cumulatively, on coastal resources. Policy 3.8-1 of the LUP requires consideration of Highway One capacity and availability of water and sewage disposal when considering applications for coastal development permits. The intent of the 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 system and other know planning factors shall be considered when considering applications for development permits.

Zoning Code Section 20.376.025 provides for one dwelling unit per residentially designated parcel.

Zoning Code Section 20.458.010 states that the creation and/or construction of a second residential unit is prohibited, except for such things as farm employee housing, farm labor housing, and family care units

The subject property is designated in the Mendocino County LUP and Coastal Zoning Code as Rural Residential, 5 acre (1 acre minimum) Floodplain (FP). The proposed project is an addition to an existing single-family residence located on a .87 acre parcel in an area developed with single-family residences. Therefore, the proposed addition to the single-family residence is consistent with the LUP and zoning designation for the site.

The proposed addition to the residence would not result in an increase in traffic demand on Highway One, as the addition would not result in a change in intensity of use at the site or surrounding area. Furthermore, as discussed in the Visual Resources findings below, the

proposed amendment has been conditioned to be consistent with visual resource policies of the Mendocino LCP.

The residence is served by Caspar South Water Company, and has received preliminary approval from the Mendocino Environmental Health Department for a new septic tank and pump tank capable of meeting the needs of the new house addition.

To ensure that the proposed guest house will not be used at any time as a second residential unit inconsistent with Zoning Code Sections 20.376.025 and 20.458.010, Special Condition No. 2 is attached to this permit, requiring recordation of a deed restriction stating that the guest unit shall be without kitchen or cooking facilities, and shall not be separately rented, let, or leased.

The Commission finds, therefore, that as conditioned, the development with the proposed amendment is consistent with LUP Policies 3.9-1 3.8-1, and with Zoning Code Sections 20.368.025 and 20.458.010, because Special Condition No. 2 of this permit will ensure that there will be only one residential unit on the parcel, there will be adequate services on the site to serve the proposed development, and the project will not contribute to adverse cumulative impacts on highway capacity, scenic values, or other coastal resources

### 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 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 subject property is located on a blufftop parcel that overlooks the ocean. The existing residence is located in the west-central portion of the parcel on an elevated marine terrace that slopes very gently toward the bluff edge. The bluff is approximately fifty (50)-feet in vertical height with an average slope gradient of ½:1. Some portions are nearly vertical. A small ravine is incised into the center of the parcel's bluff edge. The distance from the top of this ravine to the attached deck, which is the nearest portion of the existing house, is thirty-seven (37)-feet. There are three (3) sea caves along the western edge of the parcel. The lower bluff faces are primarily bare soil and rock with little or no vegetation. The upper bluff slopes are vegetated with species of the Coastal Bluff Scrub plant community, and with lawn grass covering the top of the terrace.

The original 1978 permit (CDP #NCR-78-CC-807, Howell) approved plans showing a bluff setback of fifty (50) feet from all portions of the bluff edge except the small ravine, where an approximately 37-foot setback was allowed. This setback was "considered adequate" by registered geologist J. Riley Jones who completed the geologic report submitted with the original permit application.

The proposed project involves the addition of a new garage and studio workshop on the south side of the existing residence. The applicant has submitted an Engineering Geologic Reconnaissance report for the proposed project prepared by registered engineering geologist Erik

Olsborg of Bace Geotechnical, a division of Brunsing Associates, Inc. The report, dated September 6, 2001, concludes *"that the site is suitable for the planned residential additions."* According to the previous geologic report conducted in 1978, the coastal bluff retreat in this locality was estimated to be *"in excess of one foot per year."* The current report of September, 2001, discusses this earlier finding: *"The 1978 J. Riley Jones Geologic Report designated a bluff retreat rate in excess of one foot per year; however, the northwest property stake has remained in the same location relative to the bluff edge for approximately 33 to 35 years. Based upon the results of our aerial photograph study and reconnaissance, it appears that the bluff is eroding at the relatively low, average rate of about one and one-half to one and three-quarters of an inch per year. Therefore, over a period of 75 years (the economic lifespan of a house per the California Coastal Commission), we estimate that the bluff will erode back approximately 11 feet. Using a factor of safety of three, a suitable bluff setback would be 33 feet."*

Mendocino County LUP Policy 3.4-7 requires 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); and that setbacks be of sufficient distance to eliminate the need for shoreline protective works. In accordance with LUP Policy 3.4-7 and Coastal Zoning Code Section 20.500.020, the minimum setback is calculated from the setback formula:  $\text{Setback(meters)} = \text{structure life (75 years)} \times \text{retreat rate (meters/year)}$ . Based on this formula, the current Engineering Geologic Reconnaissance report indicates that the minimum setback necessary is eleven (11) feet, but recommends a setback of thirty-three (33)-feet to provide a factor of safety of three. The proposed additions will not come closer than about fifty (50)-feet from the bluff edge. Thus, the geotechnical report concludes that the proposed setback is sufficient to provide for a 75-year design life of the proposed additions.

Mendocino County LUP Policy 3.4-9 requires that any development landward of the blufftop setback 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. The updated Engineering Geologic Reconnaissance report prepared by Erik Olsborg for the proposed project did not include specific recommendations for collecting and routing drainage away from the coastal bluff. Commission staff consulted with Mr. Olsborg, and he indicated that runoff from impervious surfaces of the development would be adequately handled by infiltration into the vegetated area surrounding the residence. He stated that the coastal bluff was "far enough away" from the residence, that he was "not concerned" about runoff reaching the un-vegetated bluff face, and that he believed that the runoff resulting from the residence, including the proposed remodel/additions, would be "well dispersed." Surface runoff from the site drains toward the bluff edge, but there is approximately 37-50 feet of vegetated area that allows for runoff to percolate before draining down the bluff face. To promote infiltration of the runoff from the roofs and other impervious surfaces of the proposed additions into the ground and to ensure that such runoff does not erode the ground surface or the bluff face, the Commission attaches Special Condition No. 3. This condition requires, among other things, that drainage from rooftop and other hardscape areas be directed into permeable space onsite to facilitate infiltration and that velocity reducers be incorporated in gutters and downspouts to prevent scour and erosion at their outlets. As conditioned, the Commission finds that the proposed project as amended will be constructed so

as to ensure that surface and subsurface drainage does not contribute to erosion of the bluff face or to the instability of the bluff consistent with LUP Policy 3.4-9.

In addition, the Commission attaches Special Condition No. 1, which prohibits the construction of shoreline protective devices on the parcel to protect the house additions authorized by Coastal Development Permit Amendment No. NCR-78-CC-807-A1. This requirement is 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 as amended could not be approved as being consistent with Zoning Code Section 20.500.010 if projected bluff retreat would affect the proposed development as amended and necessitate construction of a seawall to protect the new additions. 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 residential development such as the proposed addition is not permitted by the LCP.

The applicant is proposing to construct additions to an existing residence. Portions of the additions will be constructed as close as 50 feet to a bluff that is gradually eroding. Thus, the additions will 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 will not be needed in the future. The applicant has submitted information from a registered engineering geologist which states that if the new development is set back thirty-three (33)-feet from the bluff edge, it will be safe from erosion and will not require any devices to protect the proposed development during its useful economic life.

Although a comprehensive geotechnical evaluation is a necessary and useful tool that the Commission relies on to determine if proposed development is even appropriate on any given bluff top 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.

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 additions to the residence are set back fifty (50)-feet from the bluff edge as proposed. 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 residence, 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 lot, 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. 1 requiring a deed restriction prohibiting the construction of seawalls or other shoreline protective devices to protect the additions that have been authorized by Permit Amendment No. NCR-78-CC-807-A1.

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

Additionally, the Commission attaches Special Condition No. 5, 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 applicants have chosen to implement the project despite these risks, the applicants must assume the risks. In this way, the applicants are notified that the Commission is not liable for damage as a result of approving the

permit for development. The condition also requires the applicants 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 as conditioned, the development with the proposed amendment 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 amended development will not result in the creation of any geologic hazards, and will not have adverse impacts on the stability of the coastal bluff or on erosion. Only as conditioned is the development with the proposed amendment consistent with the LCP policies on geologic hazards.

The Commission notes that any further addition to the structure between the approved development and the bluff edge is not exempt from coastal permit requirements and would require either another amendment of Coastal Development Permit No. NCR-78-CC-807-A1 from the Commission or a new permit from the County. The Commission's regulations and the Mendocino County Coastal Zoning Ordinance provide that additions to existing single family residences to be built within 50 feet of a coastal bluff are not exempt from coastal permit requirements. Therefore, the Commission or the County will be able to review any future additions that might be proposed within the required bluff setback area to ensure that the development will not be located where it might result in the creation of a geologic hazard.

#### 4. Visual Resources

Section 30251 of the Coastal Act has been specifically incorporated into LUP Policy 3.5-1 of the Mendocino LCP and states in 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.*

Policy 3.5-1 of the County's LUP provides for the protection of the scenic and visual qualities of the coast, requiring permitted development to be sited and designed to protect views to and along the ocean and to be visually compatible with the character of surrounding areas.

Policy 3.5-15 in referring to lighting states in applicable part, that lights "*shall be shielded so that they do not shine or glare beyond the limits of the parcel...*"

The subject site is a blufftop parcel located in the Point Cabrillo Subdivision, on the west side of Point Cabrillo Drive, near the end of Greenling Circle, a private road. The property is not within



an area designated as highly scenic in the Mendocino County LUP. The existing residence and proposed project are visible from the ocean, but not visible from any public roads. There are no existing trails on or near the property. In securing the original coastal development permit, the Commission required the recordation of an offer to dedicate an easement for lateral public access and passive recreational use of the blufftop. This requirement was intended to offset the burden the proposed development would create on public access. The offered public access easement is located within a twenty-five (25)-foot width as measured landward from the westerly boundary of the parcel. This public access easement has not yet been accepted by a public agency or private association.

The foundation of the originally approved house is located no closer than twenty-five (25)-feet from the offered access easement. Under the amendment request, the proposed addition would encroach no closer to the access easement than the existing house. The house, as expanded, would extend roughly parallel to the access easement for an additional twenty-three (23) feet further south along the easement. However, as the additions would be no closer and no higher than the existing structures to the access easement, the additional visual impact on the future users of the access easement would not be significant.

LUP Policy 3.5-1 requires that new development be visually compatible with the character of surrounding areas. To ensure that the colors of the building materials to be used in the construction of the project are compatible with the existing natural-appearing earth tone colors of the existing house and surrounding development, the Commission attaches Special Condition 4 which requires that all exterior siding and visible exterior components be made of natural-appearing materials of dark earth tone colors only. Additionally, Special Condition 4 requires that lights be shielded and positioned in a manner that will not allow glare beyond the limits of the parcel as required by LUP Policy 3.5-15.

The allowable height for structures built in non-highly scenic areas is twenty-eight (28)-feet. The existing residence was approved for a height of twenty-seven (27)-feet above average finished grade. The proposed height of the new construction would not exceed an average height of twenty-six (26)-feet.

Therefore, the Commission finds that as the building colors will blend with the existing development on the parcel, the lighting will be limited to avoid glare, and the height of the new addition will be consistent with the height of the existing structure, the amended development as conditioned, will be visually compatible with the character of surrounding areas as required by LUP Policy 3.5-1. In addition, as the site is not visible from public roads and the development will be inland of the location of the recorded offer to dedicate a public access easement, the development will be sited and designed to protect views to and along the ocean. Furthermore, the development includes no significant alteration of natural landforms. Therefore, the Commission finds that as conditioned, the development as amended is fully consistent with the visual resource protection requirements of the LCP.

**5. Sedimentation and Water Quality**

Section 20.492.020 of the Mendocino Coastal Zoning Code incorporates sedimentation standards and states in part:

- (A) *Sediment basins (e.g., debris basins, desilting basins, or silt traps) shall be installed in conjunction with initial grading operations and maintained through the development/construction process to remove sediment from runoff wastes that may drain from land undergoing development to environmentally sensitive areas.*
- (B) *To prevent sedimentation of off-site areas, vegetation shall be maintained to the maximum extent possible on the development site. Where necessarily removed during construction, native vegetation shall be replanted to help control sedimentation.*
- (C) *Temporary mechanical means of controlling sedimentation, such as hay baling or temporary berms around the site, may be used as part of an overall grading plan, subject to the approval of the Coastal Permit Administrator.*
- (D) *Design of sedimentation control devices shall be coordinated with runoff control structure to provide the most protection.*

Section 20.492.020 of the Mendocino County Coastal Zoning Code sets forth sedimentation standards for development involving grading to minimize sedimentation of off-site areas. Specifically, Section 20.492.020 requires that sedimentation be minimized by use of temporary mechanical means and by maintaining the maximum extent of vegetation possible on the site and replanting when necessary.

Site drainage flows toward the bluff edge. The existing single-family residence and the proposed addition are located approximately fifty (50)-feet from the bluff edge and much of the runoff from the site is filtered by the pervious grassy area between the development and the bluff edge. The site is relatively flat and the proposed project does not involve a significant amount of grading, but does involve some excavation for construction of the proposed addition. The proposed project does not involve major vegetation removal, but would result in the disturbance of a portion of the vegetated area surrounding the area to be excavated for foundation. The required excavation results in the potential for sediment to be entrained in surface runoff and potentially be deposited off-site, particularly during the rainy season (October 15 – April 30). Sediments entrained in runoff can result in adverse water quality impacts such as increased turbidity and can result in potential adverse impacts to off-site environmentally sensitive habitat areas. In addition, other contaminants contained in the surface runoff from roofs and other impervious surfaces of a development can adversely affect water quality if the runoff is allowed to enter nearby streams or other water bodies.

To control sedimentation, minimize the potential for large quantities of sediment to leave the site, and avoid water quality impacts from pollutants contained in surface runoff from the development, the Commission attaches Special Condition No. 3 which requires sand bags or hay bales to be installed and maintained around the immediate perimeter of the construction area prior to the commencement of any ground-disturbing activities, and all on-site debris stockpiles to be covered and contained at all times. Special Condition No. 3 further requires that vegetation at the site be maintained to the maximum extent possible, and that any disturbed areas be replanted immediately following project completion.

Therefore, the Commission finds that as conditioned, the development with the proposed amendment is consistent with Section 20.492.020 because sedimentation will be controlled and minimized by (1) installing sand bags or hay bales around the perimeter of construction prior to ground disturbing activities to contain sediment laden runoff from the project site, (2) covering and containing on-site debris stockpiles at all times, and (3) maintaining on-site vegetation to the maximum extent possible, and replanting any disturbed areas immediately following project completion.

#### **6. Environmentally Sensitive Habitat Areas**

Policy 3.1-7 of the Mendocino County LUP states that a buffer area shall be established adjacent to all environmentally sensitive habitat areas in order to protect them from significant degradation from future development. This policy is reiterated in Section 20.496.020 of the County's Zoning Code.

A botanical survey, dated July 9, 2001, was conducted by Gordon McBride, Ph.D. to determine the presence of rare and endangered plants or other environmentally sensitive habitat on or near the subject parcel. No rare or endangered plant species nor any other environmentally sensitive habitat were located on the portions of the property where new construction is proposed. A Paintbrush population was, however, detected growing on the steep bluff face, but it was too far down the steep slope to make positive identification possible. This plant population may, or may not, be the rare or endangered Mendocino Paintbrush (*Castilleja mendocinensis*). The botanical survey determined that with the location of the plant below the bluff edge and the fifty (50)-foot setback of the development from the bluff edge, a sufficient buffer area would be established to protect the plant from degradation. Therefore, even if the identified paintbrush is *Castilleja mendocinensis*, the plant will be unaffected by the proposed amended development. The development with the proposed amendment is consistent with Mendocino County LUP Policy 3.1-7 and with the County's Zoning Code, because a sufficient buffer area would be established adjacent to any potential environmentally sensitive habitat to protect the habitat from significant degradation from the development with the proposed amendment.

#### **7. Public Access**

Section 30210 of the Coastal Act requires that maximum public access shall be provided consistent with public safety needs and the need to protect natural resource areas from overuse.

Section 30212 of the Coastal Act requires that access from the nearest public roadway to the shoreline be provided in new development projects except where it is inconsistent with public safety, military security, or protection of fragile coastal resources, or adequate access exists nearby. Section 30211 requires that development not interfere with the public's right to access gained by use or legislative authorization. In applying Sections 30210, 30211 and 30212, the Commission is also 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 avoid or offset a project's adverse impact on existing or potential access.

The subject parcel is located west of Highway One and sits atop a coastal bluff. At the time of approval of the original permit for the residence, the Commission required the recording of an offer to dedicate an access easement to a public agency or private association. The access dedication has not yet been accepted. The intention of this easement was to provide for lateral public access and passive recreational use along the blufftop to maximize public access. The proposed development would encroach no closer toward the easement area than the existing development on the site and would not affect any future use of the easement. The proposed development also involves an addition to an existing single family residence and would not increase the intensity of use of the site. In addition, there are no trails or other evidence of public use of the property. Since the development with the proposed amendment would not interfere with the existing offer to dedicate an access easement on the property or with any possible public prescriptive rights, and since development with the proposed amendment would not result in any increase in intensity of the use of the site, the development with the proposed amendment would not create any new burden on public access.

Therefore, the Commission finds that the development with the proposed amendment does not have any adverse effect on public access, and that the project as proposed without new public access is consistent with the requirements of Coastal Act Sections 30210, 30211, and 30212, and the coastal access policies of the County's LCP.

#### **8. California Environmental Quality Act (CEQA)**

Section 13096 of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Commission incorporates its findings on conformity with LCP policies and the public access and recreation policies of the Coastal Act at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the development with the proposed amendment that were received prior to preparation of the staff report. As discussed herein, the development with the proposed

amendment has been conditioned to be found consistent with the certified LCP and the access and recreation policies of the Coastal Act. Mitigation measures which will minimize all adverse environmental impacts have been made requirements of project approval. 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 proposed project with the proposed amendment can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

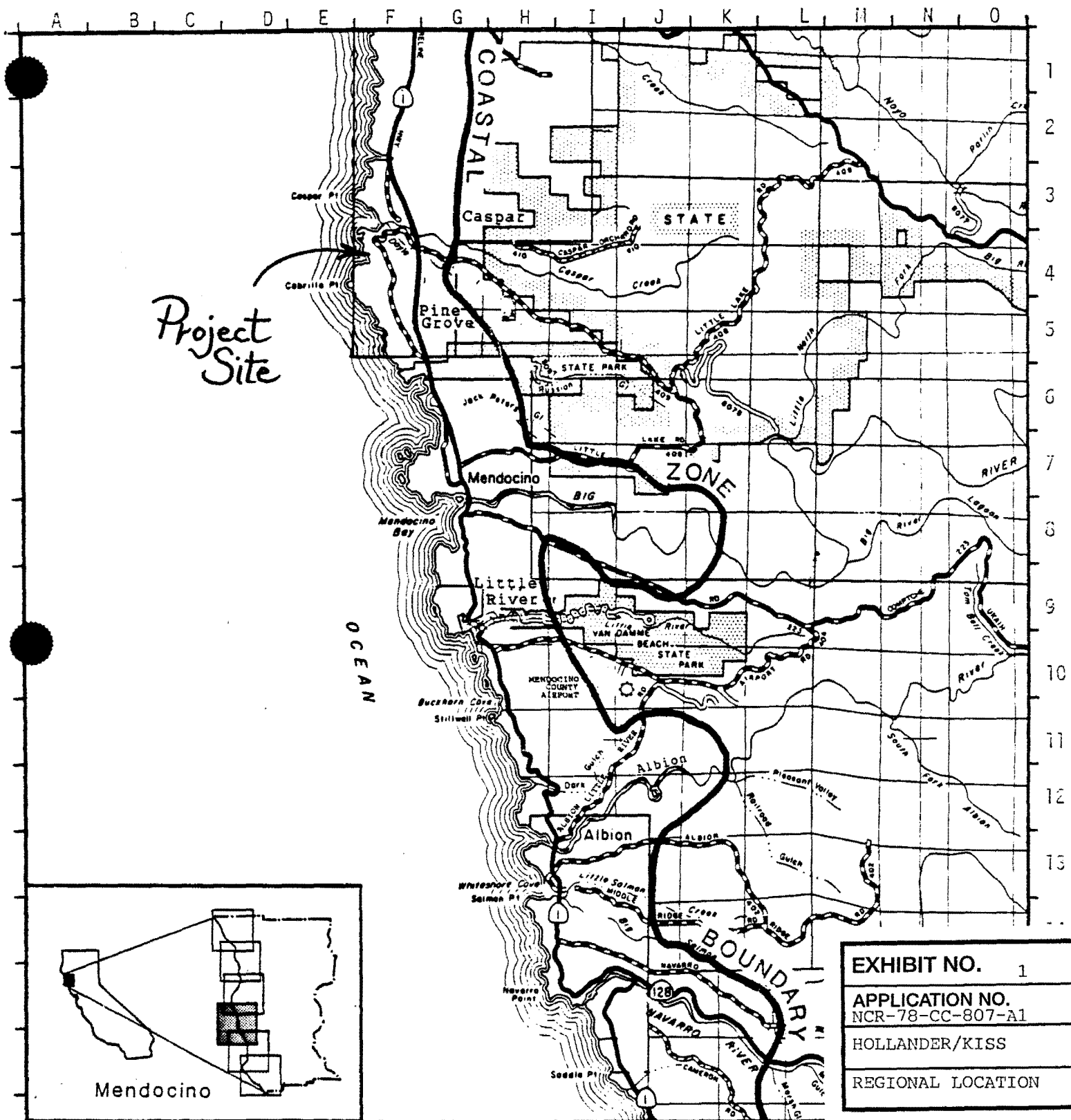
**Exhibits:**

1. Regional Location Map
2. Vicinity Map
3. Site Plans - Existing
4. Site Plans -- Proposed
5. Elevations
6. Excerpts from Geologic Report
7. Botanical Survey
8. Letter re Septic Clearance
9. Staff Report NCR-78-CC-807

ATTACHMENT A

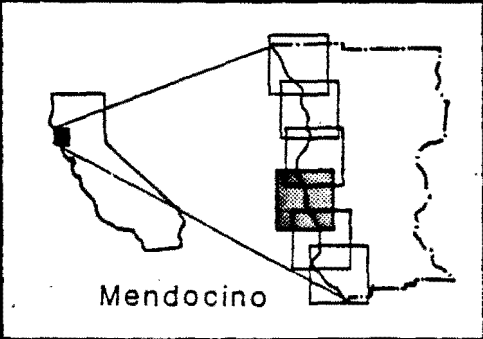
Standard Conditions:

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. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. 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.
5. 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.



*Project Site*

EXHIBIT NO.	1
APPLICATION NO.	NCR-78-CC-807-A1
HOLLANDER/KISS	
REGIONAL LOCATION	



Mendocino

**LOCATION MAP**

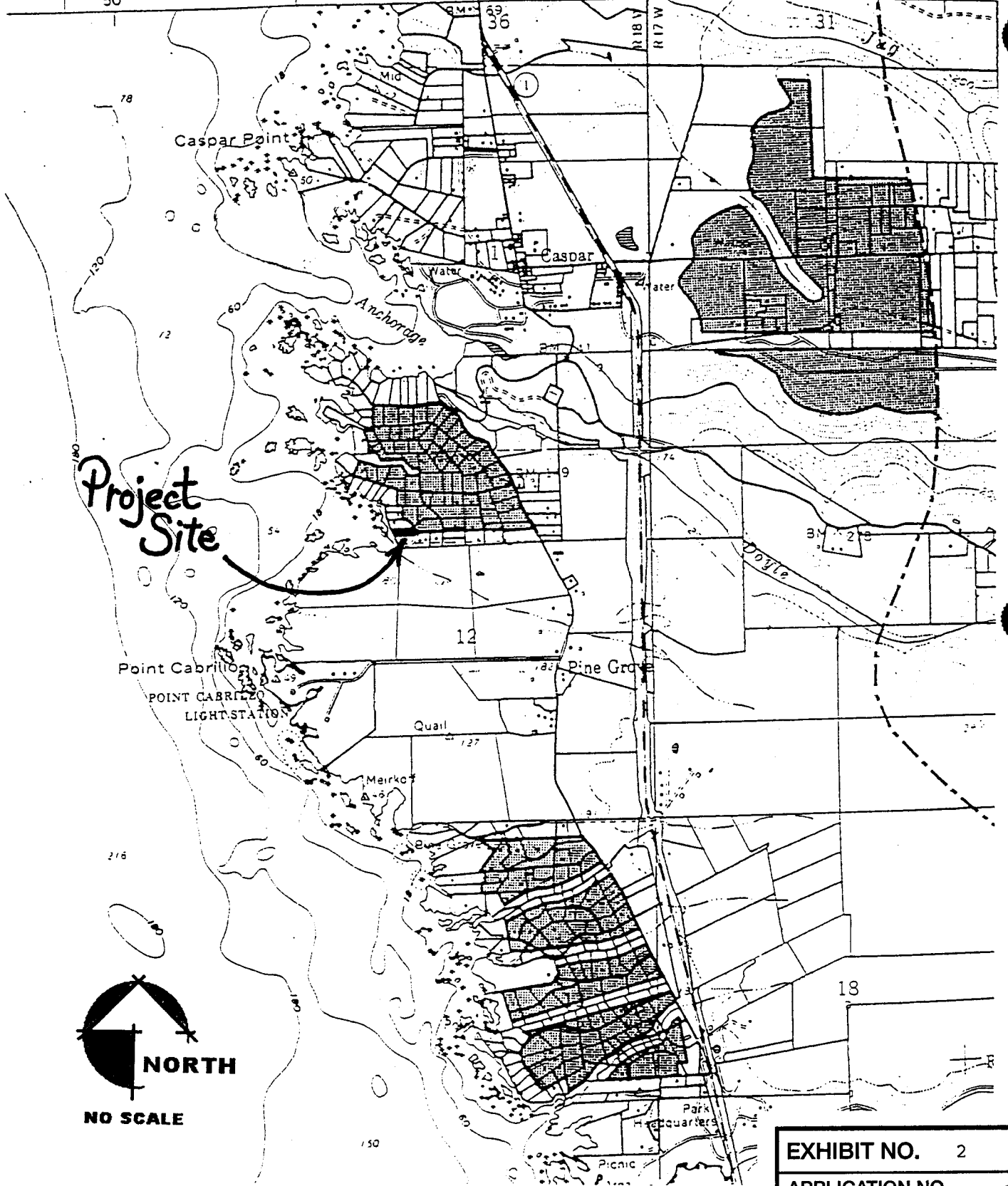


California Coastal Commission  
County of Mendocino

50'

50 MI. TO U.S. 101  
FORT BRAGG 5 MI.

47'30"



**Project Site**



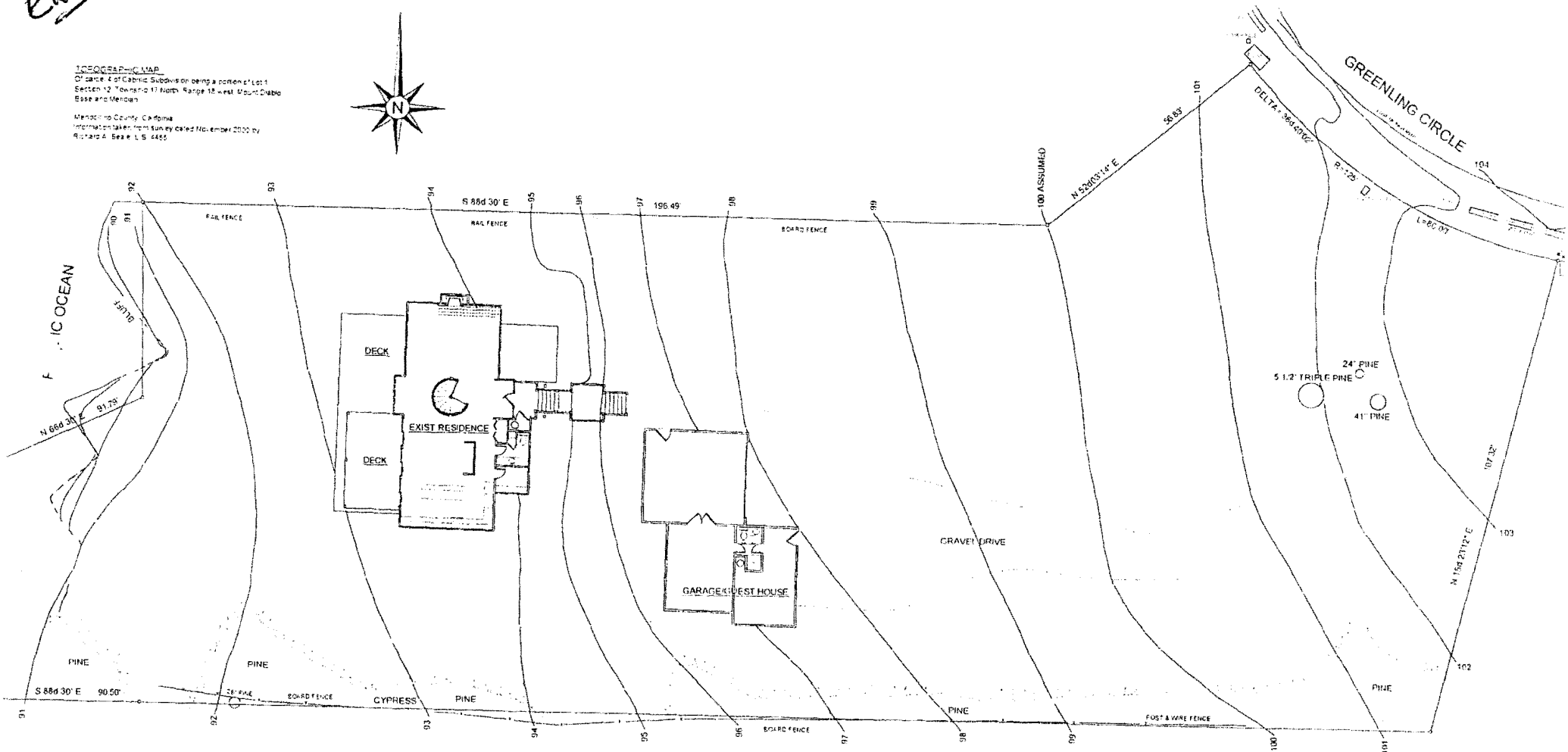
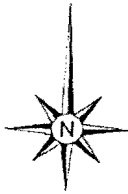
<b>EXHIBIT NO.</b>	2
<b>APPLICATION NO.</b>	NCR-78-CC-807-A1
HOLLANDER/KISS	
VICINITY MAP	



**EXISTING**

1:50000 MAP  
 OF CALIF. & DISTRICT SUBDIVISION BEING A PORTION OF LOT 1  
 SECTION 12 TOWNSHIP 43 NORTH RANGE 12 WEST MOUNT Diablo  
 Base and Meridian

Mendocino County, California  
 Information taken from Survey dated November 2000 by  
 Richard A. Beck L.S. 4455



**EXHIBIT NO. 3**

**APPLICATION NO. NCR-78-CC-807-A1**

**HOLLANDER/KISS**

**SITE PLANS - EXISTING (1 of 3)**

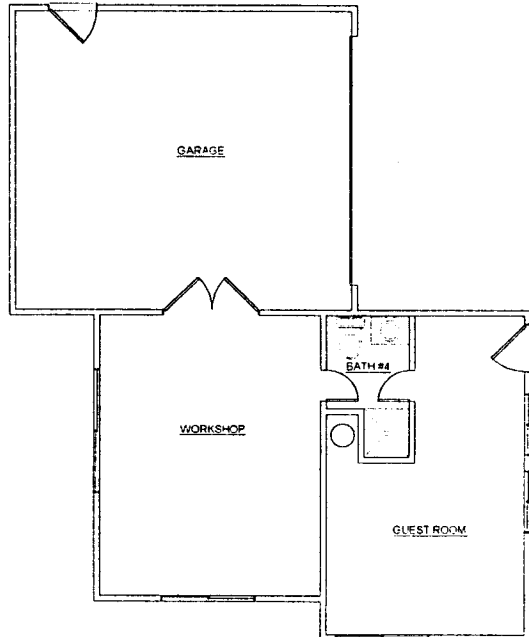
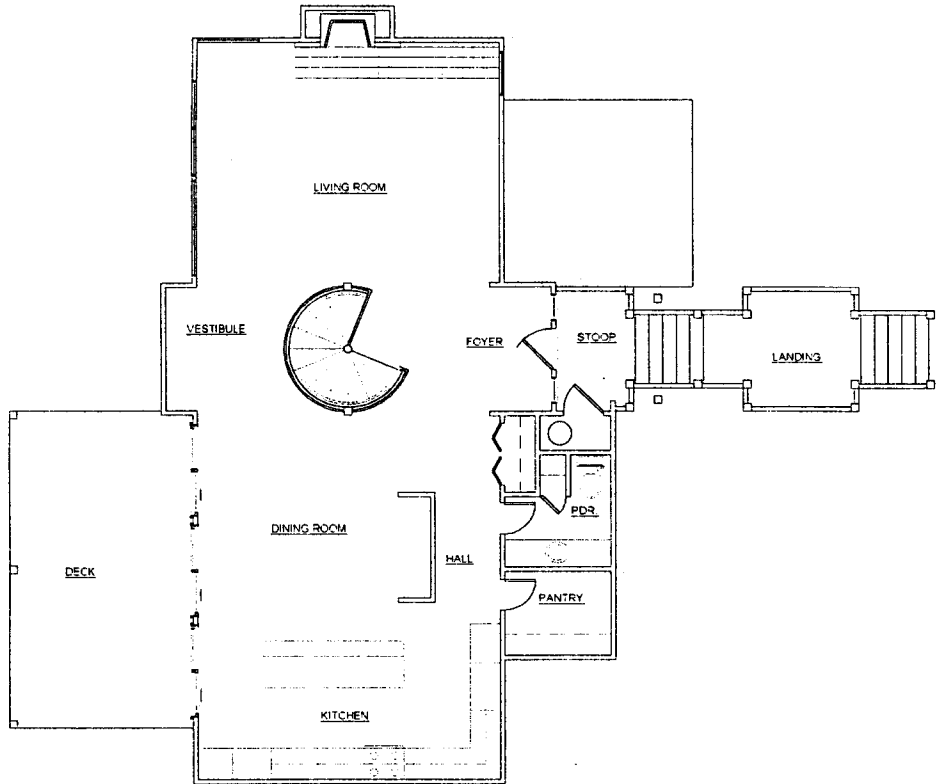
**1**  
 SP.1  
**EXISTING SITE PLAN**  
 SCALE: 1" = 10'

HALF SIZE SHEET

<b>ROSS DESIGN INC.</b> 847 ORMEWOOD TERRACE SE ATLANTA, GEORGIA 30316 TEL: 404-526-0101 FAX: 404-526-0701	<b>EXISTING SITE PLAN</b>		DRAWN BY:
	SCALE AS NOTED DATE: 10/04/04	APPROVED BY:	PROJECT NO.:
	<b>KISS/HOLLANDER RESIDENCE</b>		PROPERTY NO.:
4431 GREENLING CIRCLE MENDOCINO, CALIFORNIA		SHEET NO.: SP.1	

REV DATE

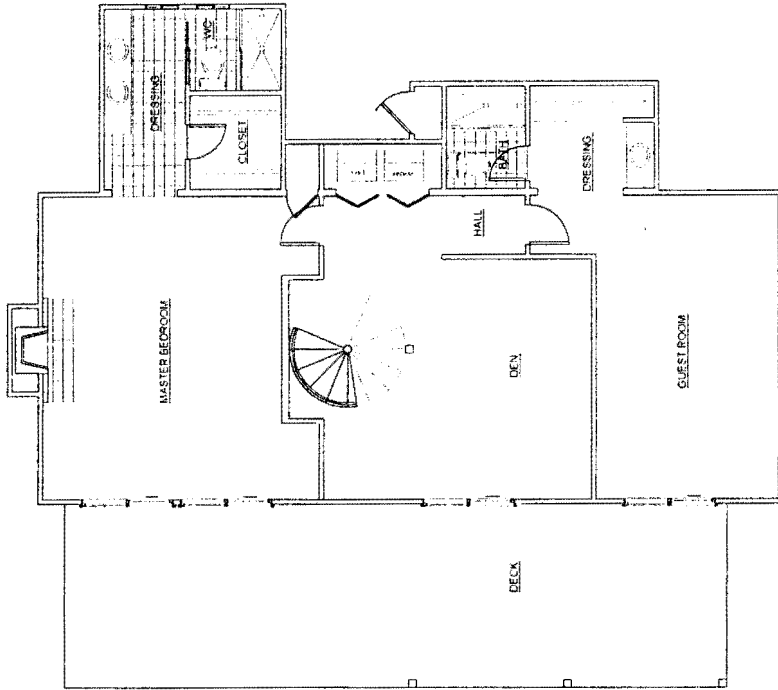
2 of 3



2 EXIST MAIN LEVEL PLAN  
 A-1 SCALE: 1/4" = 1'-0"

HALF SIZE SHEET

<b>ROSS DESIGN INC.</b> 847 ORCHWOOD TERRACE SE ATLANTA, GEORGIA 30316 TEL: 404-824-0101 FAX: 404-824-3101	<b>EXISTING MAIN LEVEL PLAN</b>		DRAWN BY: RHM PROJECT: 2K11
	SCALE AS NOTED DATE: 2/18/01	APPROVED BY:	DRAWN BY: RHM PROJECT: 2K11
	<b>KISS/HOLLANDER RESIDENCE</b>		DRAWN BY: RHM PROJECT: 2K11
REV DATE:	45431 GREENHANG CIRCLE MENDELCEO, CALIFORNIA	A-1	



1 EXISTING LOWER LEVEL PLAN  
A2 SCALE: 1/4" = 1'-0"

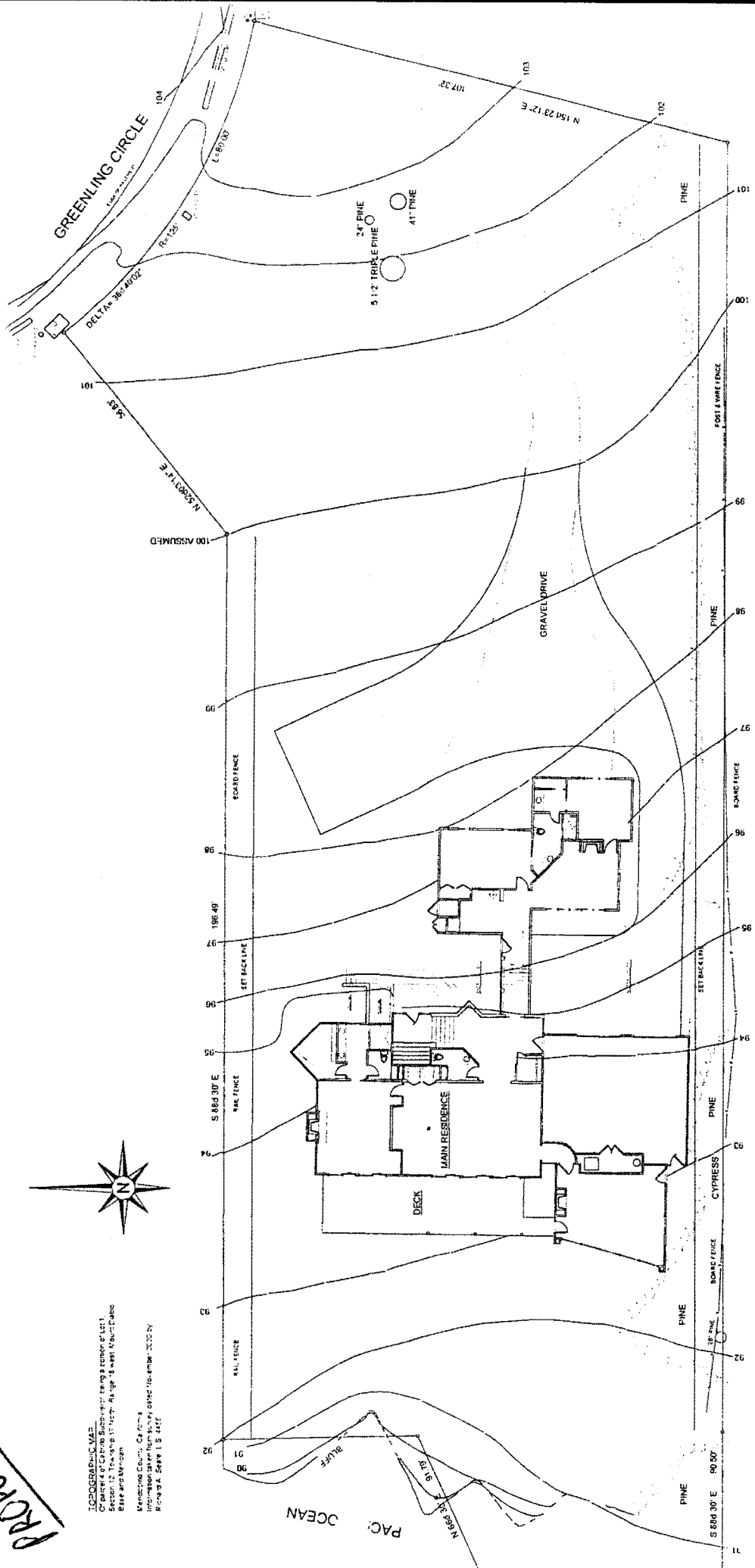
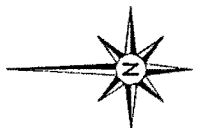
HALF SIZE SHEET

<b>ROSS DESIGN INC.</b> 4509 WOODBURN AVE SE ALBUQUERQUE, NM 87105 TEL: 505-891-4001 FAX: 505-891-7301	<b>EXISTING LOWER LEVEL PLAN</b>	
	SCALE: AS SHOWN DATE: 7/10/01	DRAWN BY: [blank] PROJECT: 2K APPROVED BY: [blank]
4543 GREENING CIRCLE MENINGO, CALIFORNIA		

REV: 04/11

**PROPOSED**

IC2020GRAPHIC, INC.  
 10000 S. Orange Avenue  
 Suite 100, Tampa, FL 33615  
 Phone: (813) 888-1111  
 Fax: (813) 888-1112  
 Website: www.ic2020.com



**EXHIBIT NO. 4**  
**APPLICATION NO. NCR-78-CC-807-A1**  
**HOLLANDER/KISS**  
**SITE PLANS - PROPOSED (1 of 3)**

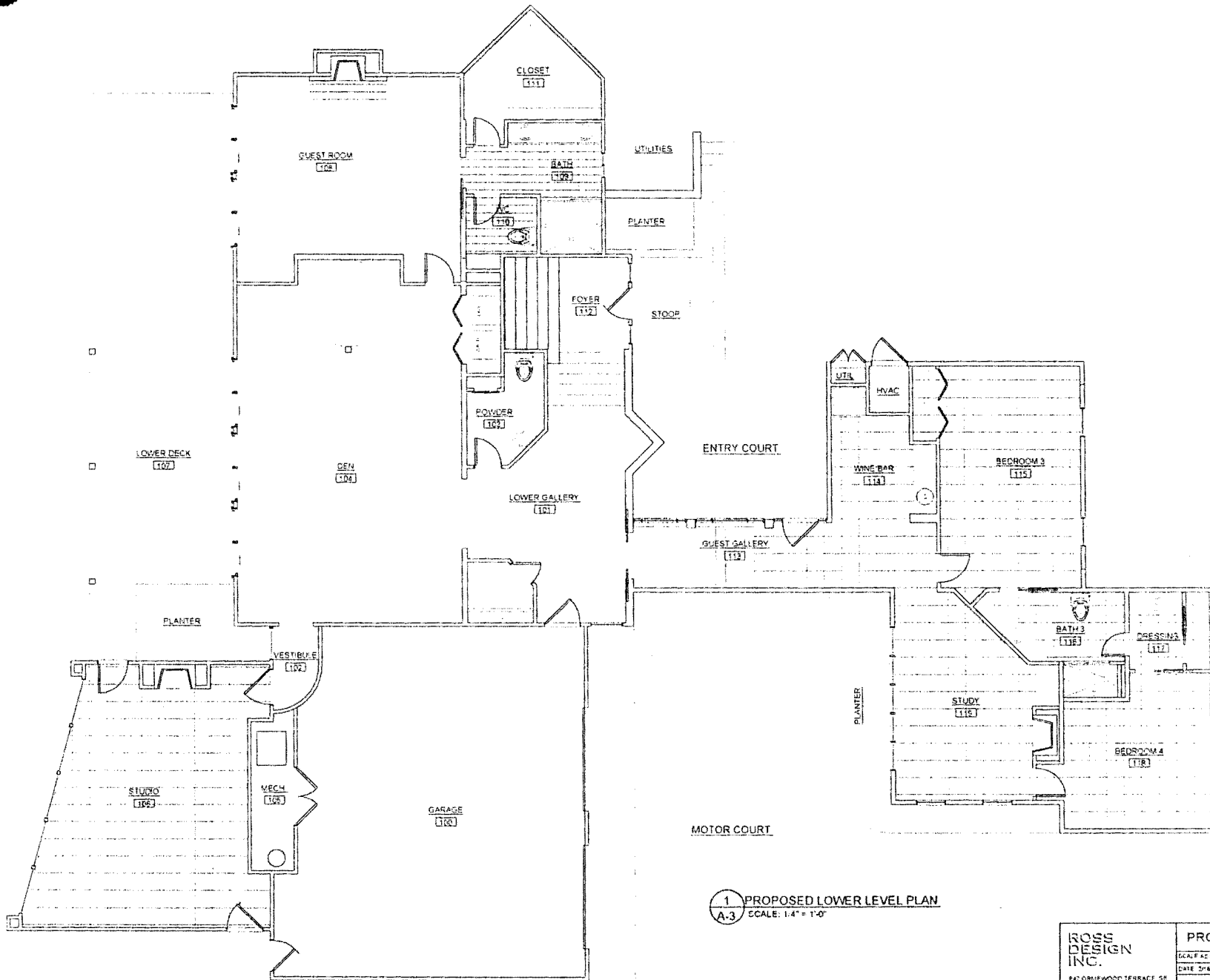
1 PROPOSED SITE PLAN  
 SP.2 SCALE: 1/8"

HALF SIZE SHEET

<b>ROSS DESIGN INC.</b>		<b>PROPOSED SITE PLAN</b>	
4400 BURNING TREE DRIVE SE ATLANTA, GEORGIA 30328 TEL: 404.252.3001 FAX: 404.252.3001	DATE: 12/20/01 DRAWN BY: J. HARRIS CHECKED BY: J. HARRIS	PROJECT: KISS/HOLLANDER RESIDENCE 4451 GREENING CIRCLE ATLANTA, GEORGIA	SCALE AS NOTED

REL. DATE

2 of 3



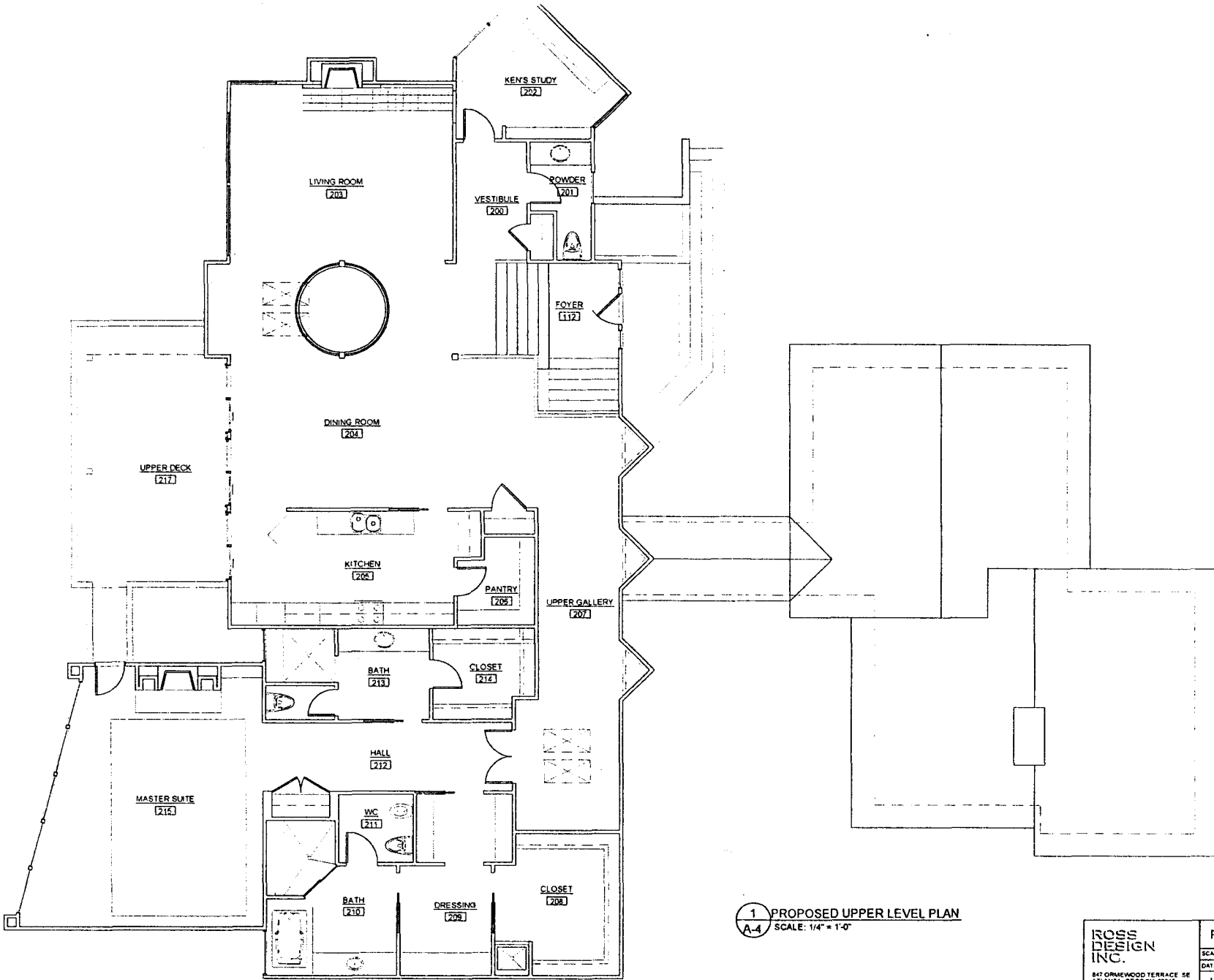
1 PROPOSED LOWER LEVEL PLAN  
 A-3 SCALE: 1/4" = 1'-0"

HALF SIZE SHEET

<b>ROSS DESIGN INC.</b> 847 ORCHARD TERRACE SE ATLANTA, GEORGIA 30316 TEL: 404-824-0101 FAX: 404-824-2701	<b>PROPOSED LOWER LEVEL PLAN</b>		
	SCALE: AS SHOWN	APPROVED BY:	DRAWN BY:
	DATE: 5/26/01		PROJECT:
	<b>KISS/HOLLANDER RESIDENCE</b>		
	45431 GREENGLASS CIRCLE	MEMPHIS, TN 38117	PROJECT # 3

REV. DATE

209 3

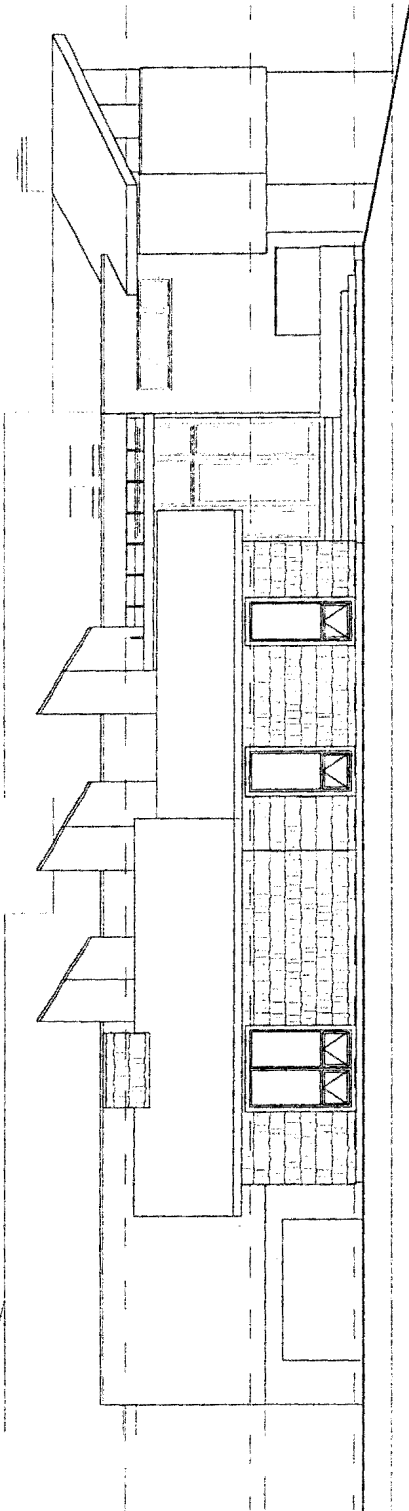


1 PROPOSED UPPER LEVEL PLAN  
 A-4 SCALE: 1/4" = 1'-0"

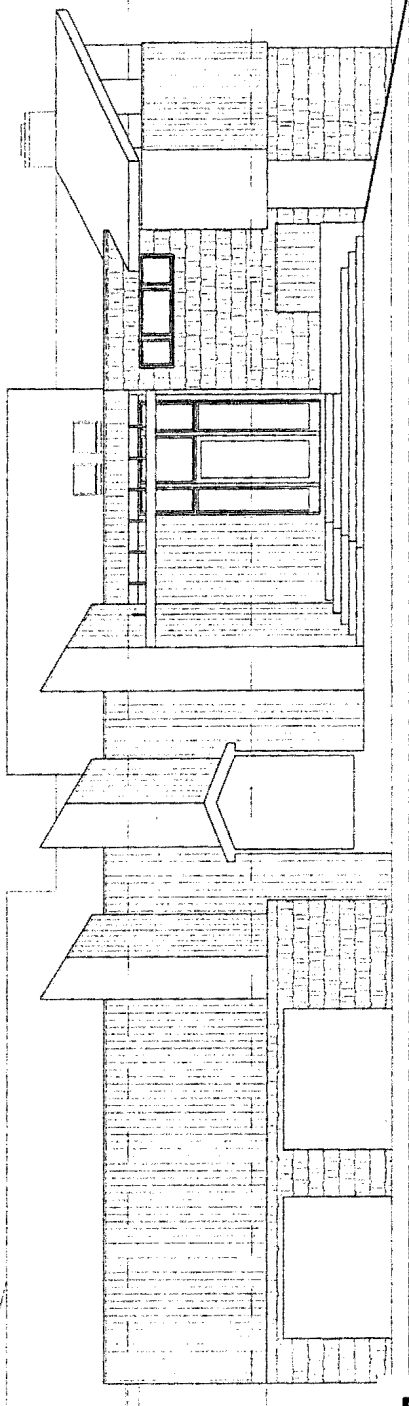
HALF SIZE SHEET

**ROSS DESIGN INC.**  
 847 ORMEWOOD TERRACE SE  
 ATLANTA, GEORGIA 30316  
 TEL 404-624-0101  
 FAX 404-624-7101

PROPOSED UPPER LEVEL PLAN	
SCALE AS NOTED	APPROVED BY
DATE 2/7/01	PROJECT
KISS/HOLLANDER RESIDENCE	
45431 GREENING CIRCLE MENDOCINO CALIFORNIA	REV. DATE



1 NEW STREET ELEVATION  
SCALE: 1/4" = 1'-0"



2 NEW STREET ELEVATION (GUEST WING REMOVED FOR CLARITY)  
SCALE: 1/4" = 1'-0"

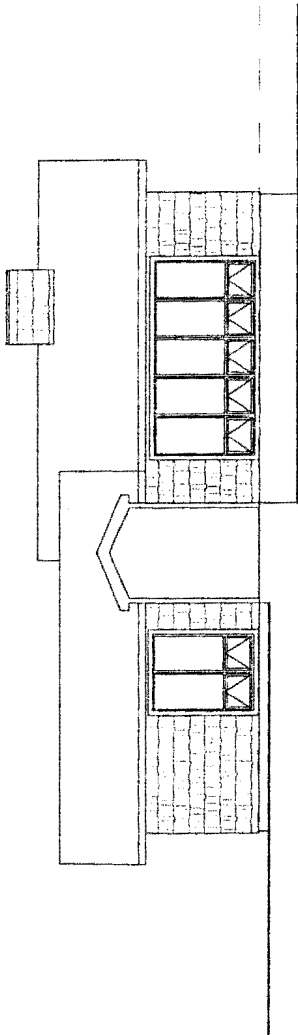
HALF SIZE SHEET

<b>ROSS DESIGN INC.</b> 847 OAKWOOD TERRACE SE ATLANTA, GEORGIA 30316 TEL: 404-854-1101 FAX: 404-854-1101	DRAWN BY: R DATE: 1/20/00 PROJECT: 2	<b>NEW ELEVATIONS</b> APPROVED BY:
	4541 GREENING CIRCLE MENLO PARK, CALIFORNIA 94025	<b>KISS/HOLLANDER RESIDENCE</b> C.B.

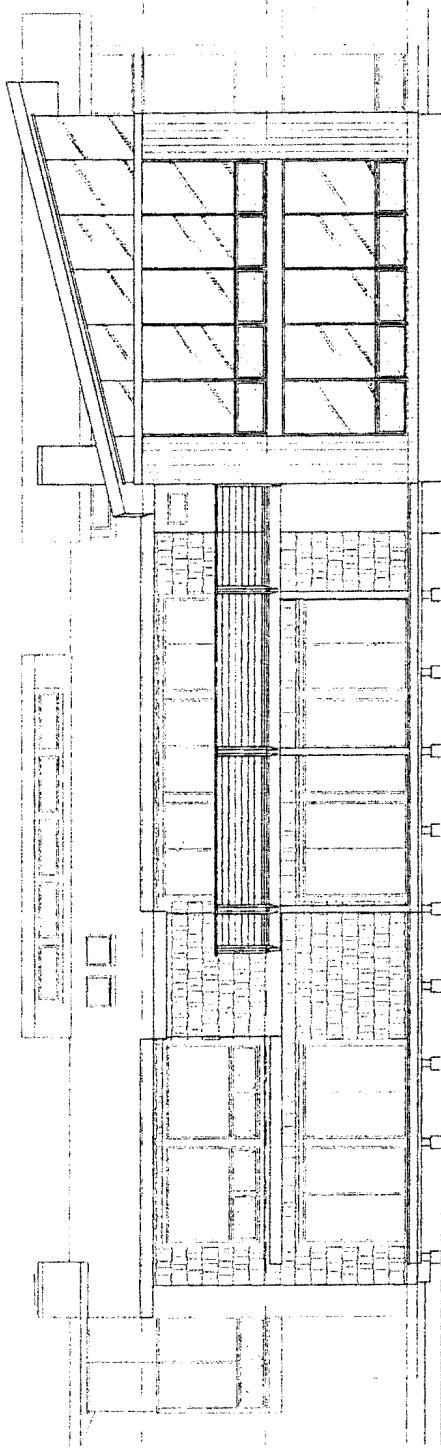
<b>EXHIBIT NO.</b>	5
<b>APPLICATION NO.</b>	NCR-78-CC-807-A1
HOLLANDER/KISS	
ELEVATIONS (1 of 3)	







1 GUEST WING WEST ELEVATION  
SCALE: 1/4" = 1'-0"



2 NEW WEST ELEVATION  
SCALE: 1/4" = 1'-0"

3 of 3

HALF SIZE SHEET

<b>ROSE DESIGN INC.</b> 417 CHATELAIN DRIVE SE ATLANTA, GEORGIA 30316 TEL: 404-834-0001 FAX: 404-834-3001	<b>NEW ELEVATIONS</b>	
	SCALE AS NOTED DATE: 07/20/08 PROJECT: 24111	DRAWN BY: RJB CHECKED: JLS
KISS/HOLLANDER RESIDENCE 4531 GREETING CIRCLE MOUNTAIN VIEW, CALIFORNIA		PROJECT NO: 08-001 SHEET NO: 1

# ENGINEERING GEOLOGIC RECONNAISSANCE

KISS/HOLLANDER RESIDENCE  
ADDITIONS  
45431 GREENLING CIRCLE,  
MENDOCINO  
A.P. NO. 188-390-04,  
MENDOCINO COUNTY, CALIFORNIA

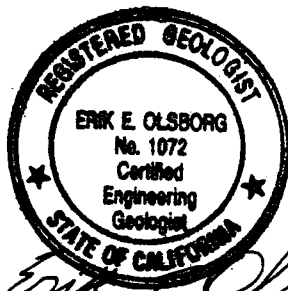
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prepared for  
Ken Hollander and Sharon Kiss  
45431 Greenling Circle  
Mendocino, CA 95460

Prepared by

BACE GEOTECHNICAL  
A Division of Brunsing Associates, Inc.  
P. O. Box 749  
Windsor, CA 95492

September 6, 2001



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

*2/28/03*

*Bret D. McIntyre*  
Bret D. McIntyre  
Project Geologist

EXHIBIT NO.	6
APPLICATION NO.	NCR-78-CC-807-A1
HOLLANDER/KISS	(1 of 5)
EXCERPTS FROM GEOLOGIC REPORT	



## 1.0 INTRODUCTION

This report presents the results of our Engineering Geologic Reconnaissance of the planned residence additions at 45431 Greenling Circle, A. P. No. 118-390-04, Mendocino County, California. The property is located on Parcel 4 of the Cabrillo Subdivision, on the west side of Highway One, approximately three-and-one-half miles north of the town of Mendocino, as shown on Plate 1, Vicinity Map.

The planned building additions are shown on the Proposed Site Plan, dated January 24, 2001, prepared by Ross Design Inc. The building additions will be on the southwest and northeast corners of the house, with the southwest corner of the planned addition extending 17 feet further west than the existing house. The planned additions will be as close as about 50 feet from the bluff edge.

The purpose of our services was to evaluate the site geology and nearby ocean bluff stability relating to the bluff retreat rate and the geologic suitability of the site.

The scope of our services, as outlined in our Service Agreement, dated July 7, 2001, consisted of studying aerial photographs, researching published geologic maps, performing a field reconnaissance and preparing the report.

## 2.0 RECONNAISSANCE

Our undersigned Principal Engineering Geologist and Project Geologist performed a reconnaissance of the site on July 18, 2001. Our reconnaissance included exploration and mapping of the lower-bluff slopes at the property by use of rappelling ropes and an ocean kayak. As part of our reconnaissance, we studied aerial photographs dated 1963 and 1981, both enlarged to a scale of one-inch equals approximately 200 feet, and reviewed the following published geologic references:

- Geology and Geomorphic Features Related to Landsliding, Mendocino 7.5 Minute Quadrangle, Mendocino County, California, 1983, Open File Report 83-15, CDMG;
- Ukiah Sheet, Geologic Map of California, 1960, CDMG.

We also reviewed a previous consultant's geologic report for Lot 4, Tract 116, Cabrillo Subdivision, dated April 1978, prepared by James Riley Jones, Registered Geologist. An estimated bluff retreat rate "in excess of one foot per year" was concluded in that report.



### 3.0 SITE CONDITIONS

The existing residence is located at the west-central portion of the property, on a near-level elevated marine terrace, as shown on the Site Geologic Map, Plate 2. The terrace-level slopes very gently to the west at about 15 to 20 feet horizontal to one vertical (15H to 20H:1V). The ocean bluff at the property is approximately 50 feet in vertical height with an average slope gradient of approximately 1/2H:1V with local areas that are near vertical. The bluff is indented with a relatively small ravine at the west-center end of the property. The ravine contains a boulder, cobble, and gravel beach which is washed by waves at high tides. The bluff edge at the back of this ravine is within 37 feet of the attached deck.

A property corner stake was found by BACE about six feet from the bluff edge at the northwest corner of the property. We understand from Richard A. Seale, Surveyor, that the stake was set by Glover and Dodge in 1966-68 at the time when the Cabrillo Subdivision was created. The property lines shown on the Cabrillo Subdivision map appear to have crudely followed the bluff edges as they appeared at that time.

There were three sea caves observed by BACE along the outer bluff face in the property vicinity, referred to in the enclosed Site Geologic Map, Plate 2, as Cave A, Cave B, and Cave C. Cave A was observed to be approximately 25 feet deep, 5 feet high, and 3 to 5 feet wide. Cave B was observed to be 5 feet deep, 15 feet high, and 15 feet wide. Cave C was observed to be 15 feet deep, 15 feet high, and 25 feet wide.

Minor to moderate seepage was observed on the bluff at the head of the ravine, as shown on Plate 2. Site vegetation consists of stands of fir and pine trees in the nearby vicinity, along with dense weeds and some brush along the upper portions of the bluff. The bluff faces are mostly bare soil or rock with little or no vegetation.

### 4.0 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 bluff at the site property is comprised of sandstone, greenstone and minor conglomerate. The Franciscan Complex bedrock is generally massive, little to closely fractured, friable to very hard (predominantly moderate in hardness), locally sheared, and little to moderately weathered. No prominent bedding orientation was observed at the site.

345



The Franciscan Complex bedrock is overlain by poorly consolidated, Pleistocene Epoch, terrace deposits. These beach or shallow marine sediments are typically comprised of sands with some silt, gravel, and clay, along with incorporated rock fragments eroded from the underlying bedrock platform. The terrace materials were deposited in lenses that are generally flat, with local undulations caused by the variable-energy nature of the depositional environment.

The terrace deposits are approximately 4 to 5 feet thick at the bluff edge. Since the terrace/bedrock contact is relatively flat, the deposits increase in thickness further upslope to the east.

Two ancient faults and a shear zone (multiple, sub-parallel faults) were observed by BACE in the bluff face. One fault strikes northeast and has a very steep dip, approximately 80 degrees from horizontal, to the southeast. The other fault, and the shear zone, are northwest trending and near vertical. The ravine west of the house was created by weathering and erosion along the ancient, inactive faults. No faults are shown at the property on the published references or the J. Riley Jones report that we reviewed. The active San Andreas Fault is located offshore, approximately four miles to the southwest.

The 1978 Riley report states that "periodic sloughing is occurring, particularly in the small gully where the spring is located." Evidence of past, minor "sloughing" (rock falls) was observed by BACE in non-vegetated portions of the bluffs. No evidence of landsliding or gross instability was observed at the property.

## 5.0 CONCLUSIONS AND PRELIMINARY RECOMMENDATIONS

The property bluff appears relatively stable; we conclude that the site is suitable for the planned residential additions. The 1978 J. Riley Jones Geologic Report designated a bluff retreat rate in excess of one foot per year; however, the northwest property-corner stake has remained in the same location relative to the bluff edge for approximately 33 to 35 years. Based upon the results of our aerial photograph study and reconnaissance, it appears that the bluff is eroding at the relatively low, average rate of about one and one-half to one and three-quarters of an inch per year. Therefore, over a period of 75 years (the economic lifespan of a house per the California Coastal Commission), we estimate that the bluff will erode back approximately 11 feet. Using a factor of safety of three, a suitable bluff setback would be 33 feet.

Due to the proximity of the active, San Andreas Fault, there is a probability of strong seismic shaking during the lifetime of the proposed residential structure. 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.

## 6.0 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 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.

The conclusions and recommendations contained in this report are based on certain specific project information regarding type of construction and building location that 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.

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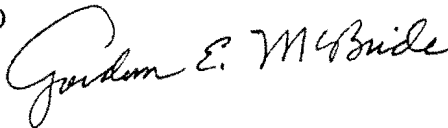
**Botanical Surveys**  
**GORDON E. McBRIDE, Ph.D.**

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DATE: July 9, 2001

To: Mr. Robert Merrill, Coastal Planner  
California Coastal Commission  
North Coast District Office  
PO Box 4908  
Eureka, CA 95502-4908

From: Gordon E. McBride, PhD  
30301 Sherwood Road  
Fort Bragg, CA 95437



Re: BOTANICAL SURVEY AS REQUIRED FOR PROPOSED CDP #NCR 78 CC 807 (HOWELL) AMENDMENT FOR ADDITION TO HOUSE AND CONNENCTING OUTBUILDING TO HOUSE. AT 45431 GREENLING CIRCLE, CASPAR, CA. ( AP #118-390-04 HOLLANDER/KISS).

**1. Project Description:**

The proposed Coastal Development Permit would allow the construction of guest facilities on the south side of an existing single family residence, and connecting an existing outbuilding to the main single family residence.

**2. Area Description:**

The site has a single family dwelling, outbuildings, septic system, well and driveway in place. A considerable portion of the site was probably vegetated by a Coastal Terrace Prairie, but the existing development has obscured that plant community. There is a manicured lawn in the immediate vicinity of the single family dwelling where the proposed guest facility is proposed and where the connection between the existing outbuilding and the main structure is proposed. Because the lawn is mowed it is not possible to identify most of the species represented, however Velvet Grass (*Holcus lanatus*), Blackberry (*Rubus ursinatus*), Hedge Nettle (*Stachys rigida*), Cat's Ear (*Hypochaeris radicata*), European Silver Hairgrass (*Aira caryophylla*), and Plantain (*Plantago lanceolata*).

In the vicinity of the bluff there is a Coastal Bluff Scrub plant community. Species represented in this area include: Thimbleberry (*Rubus parviflorus*), Beard Grass (*Polypogon monspeliensis*), Angelica (*Angelica hudsonii*), Blackberry, Bull Thistle (*Cirsium vulgare*), Velvet Grass, Silktassel (*Garrya elliptica*), Twinberry (*Lonicera involucrata*), Cat's Ear, Sword Fern (*Polystichum munitum*), Sow Thistle (*Sonchus oleracea*), Wild Cucumber (*Marah oreganus*), Salal (*Gaultheria shallon*), Pimpernell

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30301 Sherwood Road, Fort Bragg, CA 95437 USA - (707) 964-2922 - Fax: 707 964 2987 - em:

website: <http://www.jps.net/gmcbride/consult.htm>

**EXHIBIT NO.** 7

**APPLICATION NO.**  
NCR-78-CC-807-A1

HOLLANDER/KISS

BOTANICAL SURVEY  
(1 of 3)

(*Anagallis arvensis*), Dogtail Grass (*Cynosurus echinatus*), Vulpia (*Vulpia bromoides*), Shore Pine (*Pinus contorta ssp. contorta*) and associated plant species.

On the face of the bluff there is a Paintbrush population, however it too steep and dangerous to determine if it is Wight's Paintbrush (*Castilleja wightii*) or the Mendocino Paintbrush (*Castilleja mendocinensis*). This population, in any case, is more than 50 feet away from the proposed guest facility and considerably more than that from the proposed connection between the outbuilding and the primary residence.

### 3. Survey Methodology and Date:

The site was surveyed on July 16, 2001. The survey was conducted by walking the parcel and making field notes of the plant communities and species represented. Any plant material needing further identification was taken to the laboratory and keyed in one or more of the references listed below.

According to the California Native Plant Society's (CNPS) Electronic Inventory of Rare or Endangered Plants of California there are nine rare or endangered plant species known from the Mendocino quadrangle in Coastal Terrace Prairie and Coastal Bluff Scrub: Blasdale's Bent Grass, Swamp Harebell, California Sedge, Deceiving Sedge, Mendocino Paintbrush, Supple Daisy, Pacific Gilia, Perennial Goldfields and the Coast Lily. At the time of the field survey all of these species were within their blooming windows except the Deceiving Sedge, however the Deceiving Sedge is characteristic of wet habitats which are not represented on the site. See Appendix A for a CNPS Fulldata printout for these species.

### 4. Results and Discussion:

Blasdale's Bent Grass, Swamp Harebell, California Sedge, Deceiving Sedge, Supple Daisy, Pacific Gilia, Perennial Goldfields and the Coast Lily were not discovered on the site of the proposed Hollander and Kiss Coastal Development Permit. No other rare or endangered plant species were located on the site of the proposed Hollander and Kiss Coastal Development Permit. No sensitive plant habitat was located on the site of the proposed Hollander and Kiss Coastal Development Permit.

The population of Paintbrush on the bluff face may or may not be the rare or endangered Mendocino Paintbrush. The proposed development, however, is more than 50 feet away from the bluff edge and will not impact the Paintbrush population, should it be the rare or endangered species.



**Impact Assessment and Mitigation Measures:**

No mitigation measures are necessary for the protection of Blasdale's Bent Grass, Swamp Harebell, California Sedge, Deceiving Sedge, Supple Daisy, Pacific Gilia, Perennial Goldfields and the Coast Lily.

Should the Paintbrush population on the bluff face be the Mendocino Paintbrush, a 50 foot buffer between it and any development would be recommended, however identification is uncertain because of the dangerous location of the plant. The populations, however, is more than 50 feet away from the proposed guest facility expansion and considerably more than that from the proposed connection between the existing outbuilding and the existing single family dwelling.

**6. References;**

- Anon. 1985. Mendocino County General Plan – Coastal Element. Ukiah
- Anon. 1991. Zoning Mendocino County Code – Coastal Zone. Ukiah
- Hitchcock, A. S. 1950. Manual of the Grasses of the United States. U.S. Govt. Printing Office, Washington DC
- Hickman, J. C. (ed). 1993. The Jepson Manual the Higher Plants of California University of California Press, Berkeley
- Holland, R. F. 1986. Preliminary Descriptions of the Terrestrial Plant Communities of California. California Department of Fish and Game, Sacramento
- Mason, H. G. 1959. A Flora of the Marshes of California. University of California Press, Berkeley.
- Skinner, M and B. Pavlik 1994. Inventory of Rare and Endangered Vascular Plants Of California. California Native Plant Society Special Publication #1 (5<sup>th</sup> ed), Sacramento, CA.

**UKIAH OFFICE**

501 LOW GAP ROAD, ROOM 1326  
UKIAH, CA 95482  
(707)463-4466  
FAX (707)463-4038

HAZARDOUS MATERIALS  
(707) 463-5425



**FORT BRAGG OFFICE**

790-A1 S FRANKLIN STREET  
FORT BRAGG, CA 95437  
(707) 961-2714  
FAX (707) 961-2720

**COUNTY OF MENDOCINO  
DEPARTMENT OF PUBLIC HEALTH  
DIVISION OF ENVIRONMENTAL HEALTH**

August 27, 2001

Barnett and Fanto Construction  
PO Box 964  
Mendocino, CA 95460

RE: 45341 Greenling Circle  
Mendocino, CA 95460  
AP#: 118-390-04

Dear Mr. Barnett:

I have been in contact with Carl Rittiman, an Approved Site Consultant for Mendocino County. We have discussed this project and I can assure you that a new septic tank and pump tank can be installed to the north-east of the planned house expansion. A septic permit must be applied for, for the destruction of the existing septic and pump tank, and for the installation of the new septic and pump tank.

If you have any questions in regards to this matter, please contact me at your earliest convenience.

Sincerely,

  
Jim Ehlers, REHS  
Senior Environmental Health Specialist

JE:sh

<b>EXHIBIT NO.</b>	8
<b>APPLICATION NO.</b>	NCR-78-CC-807-A1
<b>HOLLANDER/KISS</b>	
<b>LETTER RE SEPTIC CLEARANCE</b>	

## CALIFORNIA COASTAL COMMISSION

NORTH COAST REGION

UNION STREET, ROOM 150

P.O. BOX 4946

EUREKA, CALIFORNIA 95501

(707) 443-1623



August 24, 1978

Fred & Mary Howell  
Box 1029  
Berkeley, California 94701

Dear Mr. &amp; Mrs. Howell:

RE: Permit NCR-78-CC-807

On August 10, 1978, by a vote of 11 in favor, 0 opposed, the North Coast Region of the California Coastal Commission granted/denied your application for a permit for the development described in the attached application summary and staff recommendation, which were adopted at the Commission meeting of August 10, 1978. This permit is limited to the above described development and is subject to the terms and conditions contained therein.

This permit will be in effect for a period of two years from the time of the Regional Commission's final action. If the ~~development~~/development has not been ~~filed~~/completed by that date, application for any extensions must be made before expiration of the permit.

If you should determine that you wish to assign this permit to another party, you should contact the Regional Commission office for instruction in the appropriate procedure.

You will also find attached a "Notice of Completion" which should be returned when you have finished your project.

Please return to this office copies of this statement with your signature acknowledging that you have received it and understood its content.

All construction must occur in accord with the proposal as set forth in the application for permit, subject to any special conditions as set forth in the attachment. Any deviations from the approved plans must be reviewed by the Commission pursuant to California Administrative Code, Title 14, Sections 13164-13168.

Yours truly,

*Richard G. Rayburn*  
RICHARD G. RAYBURN  
Executive Director

EXHIBIT NO. 9
APPLICATION NO. NCR-78-CC-807-A1
HOLLANDER/KISS (1 of 4)
STAFF REPORT - NCR-78-CC-807

attachment Betty Howk  
CC: County Assessor's Office  
Building  
Planning Department

The undersigned permittee acknowledges receipt of the California Coastal Commission Permit No. NCR-78-CC-807, and fully understands its contents, including all conditions imposed.

DATE

PERMITTEE

ORTH COAST REGIONAL COMMISSION

Consent Calendar Staff Report  
for the meeting of August 10, 1978

Applicant: Fred & Molly Howell  
Box 1029  
Berkeley, CA 94701

Application No: NCR-78-CC-807  
Findings: 3, 12, 22, 25  
Agent: Betty Howk  
Box 126  
Mendocino, CA 95460.

Project Location: Located on an oceanfronting parcel on Greenling Circle, Cabrillo Subdivision, south of Caspar.

Proposed Development: Construction of a two-story, 27' high, 3262 sq. ft. single family residence, garage and septic system.

I. Project Description:

A. Site Characteristics:

1. Parcel Size: 37,892 sq. ft.
2. Slope: 0-10%  10-30%  +30%
3. Vegetation: grasses, brush
4. Between sea and 1st roadway: Yes  No
5. Developed Area: Yes  No  ; Name Cabrillo Subdivision
6. Other (Access, wetlands, drainage, etc.):

B. Development Description:

1. Size of structure(s): 3262 sq. ft.
2. Height (from average finished grade): 27 ft.
3. Water Supply:  community system  well
4. Sewage disposal:  community system  septic
5. Underground utility service:  Yes  No
6. General Plan R-R Resort-Residential Zoning R-R
7. Other:

II. Conditions of Approval:

1. The height of the residence shall not exceed that of adjoining residences or more than 16' from the elevation of the frontage road.
2. Prior to the issuance of a permit, the applicant and all persons with an interest in applicants parcel shall execute and record a document, the form and content of which have been approved by the Executive Director of the Regional Commission offering to dedicate to the public the right of access, a lateral easement of 25 feet as measured landward from the westerly boundary of Lot 4, as numbered and designated on the map entitled "Tract No. 116 Cabrillo Subdivision" filed for record in the office of the County Recorder

of the County of Mendocino, California, on July 26, 1968, in Map Case 2, Drawer 11, Page 60, Mendocino County Records.

That applicant shall be required, prior to issuance of permit, to provide the Regional Commission with a title report and guarantee in favor of the Regional Commission listing all parties who are necessary to execute the dedication for it to be effective. The offer to dedicate shall be irrevocable for a period of 25 years and shall run with the land, binding successors and assigns of the applicant. Only a public agency or a private association agreeing to accept responsibility pursuant to Public Resources Code Section 30212 for maintenance and liability of the accessway shall accept the offer. The applicant shall agree to dedicate such interest in the land as required by the public agency or private association that accepts the dedication except that the public use of the land may be limited to pedestrian travel, viewing, and coastal trail access. Access by the public shall not be permitted until the provisions of Public Resources Code Section 30212 regarding liability and maintenance are fulfilled and an access program including the possible acceptance of the area offered in dedication pursuant to this condition has been included in a certified local coastal program for the area. If, upon certification, the local coastal program does not contain an access program including the possible acceptance of the applicant's offer of dedication, the Executive Director of the Regional Commission or its successor shall, pursuant to request by the applicant, execute in a form proper for recordation, a document releasing applicant from any further obligation under this offer. Issuance of permit shall not take place until the applicant has submitted to the Executive Director of the Regional Commission evidence of recordation of the approved offer of dedication. (See attached Offer to Dedicate Easement form and explanatory note.)

