

**CALIFORNIA COASTAL COMMISSION**

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Filed: February 22, 2002  
49<sup>th</sup> Day: April 12, 2002  
Staff: Randall Stemler  
Staff Report: March 21, 2002  
Hearing Date: April 11, 2002  
Commission Action:

**STAFF REPORT: APPEAL****SUBSTANTIAL ISSUE**

**APPEAL NO.:** A-1-MEN-02-014

**APPLICANT:** Robert B. & Ann E. Spies

**AGENT:** Bud Kamb

**LOCAL GOVERNMENT:** County of Mendocino

**DECISION:** Approval with Conditions

**PROJECT LOCATION:** Approximately two miles south of the town of Mendocino, approximately 400 feet west of Highway One and on the north side of Peterson Street, at 45100 Peterson Street (APN 121-260-20).

**PROJECT DESCRIPTION:** Construct a 1,980-square-foot single-family residence with a maximum height of 28 feet above average natural grade. Construct a 590-square-foot personal workshop attached to a 420-square-foot garage with a maximum height of 18 feet above average natural grade. The applicant proposes to use the workshop for temporary occupancy while constructing the single-family residence. Install a new driveway, septic system and water supply system from an existing test well. Remove

approximately 16 eucalyptus trees adjacent to the residence building site and 1 pine tree adjacent to the workshop building site.

APPELLANT:

Dr. Hillary Adams

SUBSTANTIVE FILE:  
DOCUMENTS

1) Mendocino County CDP #80-01, CDP #85-98;  
and 2 ) Mendocino County Local Coastal Program

SUMMARY OF STAFF RECOMMENDATION

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

The development, as approved by the County, consists of construction of a twenty-eight-foot-high 1,980-square-foot single-family residence, as well as construction of an eighteen-foot-high 1,010-square-foot workshop/garage structure. The development includes a new driveway, septic system and water supply system furnished from an existing test well. Approximately sixteen eucalyptus trees and one pine tree would be removed.

The appellant contends that the approved project raises a substantial issue of conformance with the County's LCP policies pertaining to establishment of an adequate buffer between the approved development and wetland resources on the site.

Staff recommends that the Commission find that the project as approved, raises a substantial issue of conformance with the certified LCP with respect to the contention raised concerning Environmentally Sensitive Habitat Area (ESHA) resource protection. The County's approval of the proposed development does not conform to the standards set forth in the certified LCP for protection of ESHA resources. In particular, there is no evidence that the narrow 50-foot ESHA buffer required for the project was established based on the specific standards for determining the appropriate width for a buffer and in consultation with the California Department of Fish and Game as set forth by the LCP.

Staff also recommends that the Commission continue the *de novo* portion of the appeal hearing to a subsequent meeting because the Commission does not have sufficient information from the applicant to determine if the approved development can be found consistent with provisions of the certified LCP requiring delineation and protection of ESHA resources.

The motion to adopt the staff recommendation of Substantial Issue is found on page 4.

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STAFF NOTES

1. Appeal Process

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

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

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

The subject development is appealable to the Commission because: (1) it is located between the sea and the first public road paralleling the sea; (2) it is located within 100 feet of a wetland or stream; and 3) it is located in a sensitive coastal resource area: the highly scenic area designated in the certified LCP as comprising lands west of Highway One between Russian Gulch and Van Damme State Park.

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

the sea, the applicable test for the Commission to consider would be whether the development is in conformity with the certified Local Coastal Program and with the public access and public recreation policies of the Coastal Act.

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

2. Filing of Appeal.

The appellant filed an appeal (Exhibit 6) to the Commission in a timely manner on February 22, 2002 within 10 working days of receipt by the Commission on February 7, 2002 of the County's Notice of Final Action.

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I. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

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

MOTION

I move that the Commission determine that Appeal No. A-1-MEN-02-014 raises No Substantial Issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.

STAFF RECOMMENDATION

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

RESOLUTION TO FIND SUBSTANTIAL ISSUE

The Commission hereby finds that Appeal No. A-1-MEN-02-014 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency of the approved

project with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

## II. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

### A. APPELLANTS' CONTENTION

The Commission received an appeal of the County of Mendocino's decision to approve the development from Dr. Hillary Adams. The project, as approved by the County, consists of the construction of a twenty-eight foot high 1,980-square-foot single-family residence, as well as the construction of a 1,010-square-foot, eighteen-foot-high workshop/garage structure. The development includes a new driveway, septic system and water supply system furnished from an existing test well. Approximately sixteen eucalyptus trees and one pine tree would be removed. The appellant's contention is summarized below, and the full text of the contention is included as Exhibit No.6.

The appeal raises a contention involving inconsistency of the approved project with the County's LCP policies regarding protection of environmentally sensitive habitat areas. Buffers of sufficient size are required by LCP policies and standards to protect Environmentally Sensitive Habitat Areas from potential impacts resulting from future development. A minimum width of 100 feet is required unless the applicant can demonstrate that a narrower width is adequate to protect ESHA resources, and that the Department of Fish and Game concurs that the narrower buffer is appropriate. The appellant contends that the project is inconsistent with these LCP buffer width standards as a buffer of only 50 feet from wetlands on the site would be provided and no evidence has been presented that (a) there is a scientific basis for reducing the buffer, and (b) the Department of Fish and Game agrees that the narrower buffer is appropriate. The appellant notes that approval of a 50-foot buffer was based, in part, on the fact that a previous permit authorized a curtain drain to be constructed 50 feet from identified wetlands. The appellant contends that the previous permit for the curtain drain did not establish a buffer for future development including the residential buildings approved by the County under the current application. Furthermore, the appellant contends that if an appropriate buffer cannot be provided, only one building should be approved, not two.

### B. LOCAL GOVERNMENT ACTION

On January 24, 2002 the Coastal Permit Administrator for Mendocino County approved Coastal Development Permit #80-01 for the subject development. The County attached to its coastal permit a number of special conditions.

Special Condition No. 1 sets limits on the approved temporary occupancy of the proposed workshop as a residence during the construction period for building the single-family

residence. These limitations are (a) that the occupancy is only valid for the period required to complete construction of the primary dwelling, beginning on the effective date of CDP #80-01, but not exceeding two years unless renewed; and (b) that the temporary residence be converted to a permitted accessory structure (workshop) prior to the final building inspection or occupancy of the permanent dwelling. This conversion must include completely removing bathing facilities from the bathroom, and removing kitchen/cooking facilities including kitchen plumbing, countertop and cabinets.

Special Condition No. 2 requires that all exterior building materials and finishes shall match those specified in the coastal development permit application. Window glass must be non-reflective, and any change in approved colors would be subject to review and approval by the Coastal Permit Administrator for the life of the project.

Special Condition No. 3 requires an exterior lighting plan and design details to be submitted for review and approval prior to issuance of the building permit.

Special Conditions No. 4 was included to specify buffer requirements. The condition states the following:

“The wetlands (ESHA) as indicated on the site plan shall be protected with a 50-foot buffer. No development, disturbance, or tree removal shall occur within the 50-foot buffer except for the water supply line from the existing well to the garage structure. Prior to start of construction, the applicant shall install temporary protective fencing located along the edge of the 50-foot buffer. Special attention and care shall be taken during construction of the residence to assure no disturbance occurs due to the close proximity of the house footprint and the 50-foot buffer line. No construction or equipment shall encroach into the 50-foot buffer area. The temporary fence shall extend the entire length of the 50-foot buffer (west and east lot line) and shall remain in place until the final building inspection of the main residence.”

Special Condition No. 5 requires the garage/workshop to be connected to an approved septic system prior to the temporary occupancy use.

After the hearing, the Coastal Permit Administrator added the following finding: “Due to constraints of property (slope, ESHA, visual considerations) and given the previous permit action to authorize a curtain drain on-site at 50 ft. of identified wetland, it is found that development of this building site would not cause any significant environmental impact, and is consistent with the L.C.P.”

The decision of the Coastal Permit Administrator was not appealed at the local level to the County Board of Supervisors. The County then issued a Notice of Final Action, which was received by Commission staff on February 7, 2002 (Exhibit 4).

C. PROJECT AND SITE DESCRIPTION

The subject property is a  $\frac{3}{4}$ -acre parcel located approximately two miles south of the town of Mendocino just north of the beach at Van Damme State Park, about 400 feet west of Highway One, at 45100 Peterson Street, a drive that intersects with Highway One (See Exhibits 1-2). The Assessor's Parcel Number is 121-260-20. On January 24, 2002, the Coastal Permit Administrator approved Coastal Development Permit #80-01. Currently, the parcel is zoned Rural Residential, and the proposed development is consistent with the Rural Residential zoning district. The property has no structures on it except for a well and a curtain (French) drain installed in 1998 per authorization of Coastal Development Permit #85-98.

The subject property is a rectangular "L"-shaped-parcel with the northern boundary as the longest leg extending approximately 305 feet. The western boundary is a continuous line that runs approximately 160 linear feet. The southern-most boundary runs from the west corner along Peterson Street for a distance of 150 feet, at which point the property line runs north approximately 100 feet, then east approximately 156 feet, and finally north 59 feet to meet the northeast corner of the property. Brief views of portions of the parcel are available across neighboring undeveloped parcels from Highway One to the east. Development on the site would not block views of the ocean from any public vantage point. In addition, State Parks reviewed development plans for this proposed project, visited the site and found that no significant adverse impacts exist to the viewshed from Van Damme State Park to the south, or from Spring Ranch park property to the north.

The property slopes gently toward Peterson Street, with a drop of a little more than 14 feet from the highest portion at the northeast corner, to the lowest portion at the southwest corner. The mapped wetlands are located generally in the northwest corner of the parcel. The predominant vegetation at the site includes one 3- $\frac{1}{2}$  foot diameter Bishop pine near the center of the parcel, and a grove of Eucalyptus trees clustered along the western boundary, and in the southwest corner. Monterey Cypress trees are also present along the western edge. The northwest corner of the parcel is thickly vegetated with sedge and rush. Numerous other plant species occur on the site including several types of grass, brush, and herbs.

In August of 1998, a wetland delineation study for the subject property was performed by Wetlands Research Associates, Inc.. "The methods used in this study to delineate jurisdictional wetlands and waters of the U.S. are based on the *U.S. Army Corps of Engineers Wetland Delineation Manual* (Environmental Laboratory 1987). The routine method for wetland delineation described in the *Corps Manual* (1987) was used to identify areas potentially subject to Corps Section 404 jurisdiction within the Study Area... Wetland indicators were found in a swale along the northern property boundary and in association with a drainage area that runs along the western property boundary...."

The wetlands study was based on the definition of wetlands contained in the federal Clean Water Act and not on the definition of wetlands contained in the certified LCP, which is more inclusive. Thus, it is possible the extent of wetlands may be greater than that indicated in the 1998 report.

The seventy-foot-long, four-foot deep curtain drain was installed more than 50 feet from the edge of the delineated wetlands with the intention of intercepting "underground water from the north [upslope portion of the property] to dry out an area for placement of a future septic system." The Local Coastal Program Consistency Review portion of the staff report for the curtain drain permit states: "It is not anticipated that the project would have a substantial impact on the wetlands as the curtain drain simply redirects the groundwater around the potential septic area. Because the drain is placed a minimum of fifty feet from the delineated wetland, the probability of a siphoning effect on the wetland area is minimal. Therefore the size and quality of the identified wetland area should not be affected." The staff report goes on to state: "Approval of this project does not create a vested right to residentially develop this site nor does it prejudice the County in future actions relating to the development of this site." See Exhibit 5.

The parcel is subject to County Zoning Ordinance provisions for a 25-foot preservation corridor setback from Peterson Street, and to front, rear, and side-yard setbacks. The minimum linear setback from the front and rear property lines is twenty feet, and is six feet for side-yards. The front-yard setback includes this twenty-foot distance as well as an additional twenty-five-foot corridor setback from the centerline of Peterson Street, with the result that any buildings on this lot must be set back a total of forty-five feet from the centerline of Peterson Street.

The approved development would consist of a 3-story, 1,980-square-foot single-family residence built at a maximum height of 28 feet above the average natural grade, as well as construction of an eighteen-foot-high 1,010-square-foot workshop/garage structure (See Exhibit No. 3). The development includes a new driveway, septic system and water supply system furnished from an existing test well. Approximately sixteen eucalyptus trees and one pine tree would be removed. The house would be located in the lower southwest corner of the property, at (or very close to) the required setback limits on the front and side yards. The rear of the house and deck would be up against the 50-foot distance from the delineated wetland, and the east side of the house would be constrained by location of the septic leach field. Similarly, the 18-foot-tall single-story workshop/garage structure as approved by the County, is constrained in the northeast corner up against the side yard setback, the 50-foot distance from the delineated wetland, and the previously permitted and installed curtain drain.

**D. SUBSTANTIAL ISSUE ANALYSIS**

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



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

The contention raised in this appeal presents potentially valid grounds for appeal in that it alleges the project's inconsistency with policies of the certified LCP or with the public access policies of the Coastal Act. This contention alleges that the approval of the project by the County raises a substantial issue related to LCP provisions regarding the protection of environmentally sensitive habitat areas (ESHA) by the establishment of buffers between new development and the ESHA.

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

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

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

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

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

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that with respect to the allegation below, a substantial issue exists with regard to the approved project's conformance with the certified Mendocino County LCP.

Allegation Raising Substantial Issue

**Protection of Environmentally Sensitive Habitat Areas**

The appellant contends that the project as approved is not consistent with provisions of the Coastal Act, certain policies of the certified Local Coastal Program, and certain sections of the Coastal Zoning Code. The appellant specifically cites inconsistencies with Sections 30231 and 30240 of the California Coastal Act, LUP Policy 3.1 et seq., particularly Policy 3.1-2, and Policy 3.1-7, and Coastal Zoning Code Ordinance Sections 20.496.020 et seq. and 20.496.025. The appellant states that the requirement for a 100-foot minimum buffer was reduced to 50 feet without scientific justification, and without the required agreement from the California Department of Fish and Game.

The appellant notes that the approval of a 50-foot buffer was based, in part, on the fact that a previous permit authorized a curtain drain to be constructed 50 feet from identified wetlands. The appellant contends that the previous permit for the curtain drain did not establish a buffer for future development such as the residential buildings authorized in the current permit application. Furthermore, the appellant contends that if an appropriate buffer cannot be provided, only one building should be approved, not two.

LCP Policies:

Policy 3.1-2 states in part: "Development proposals in environmentally sensitive habitat areas such as wetlands, riparian zones or streams or sensitive plant or wildlife habitats (all exclusive of buffer zones) including, but not limited to those shown on the Land Use Maps, shall be subject to special review to determine the current extent of the sensitive resource. [Emphasis added] *Where representatives of the County Planning Department, the California Department of Fish and Game, the California Coastal Commission, and the applicant are uncertain about the extent of sensitive habitat on any parcel such disagreements shall be investigated by an on-site inspection by the landowner and/or agents, County Planning Department staff member, a representative of California Department of Fish and Game, [and] a representative of the California Coastal Commission. The on-site inspection shall be coordinated by the County Planning Department and will take place within 3 weeks, weather and site conditions permitting, of the receipt of a written request from the landowner/agent for clarification of sensitive habitat areas. If all of the members of this group agree that the boundaries of the resource in question should be adjusted following the site inspection, such development should be approved only if specific findings are made which are based upon substantial evidence that the resource as identified will not be significantly degraded by the*

*proposed development. If such findings cannot be made, the development shall be denied. Criteria used for determining the extent of wetlands and other wet environmentally sensitive habitat areas are found in Appendix 8 and shall be used when determining the extent of wetlands.” (Exhibit 7)*

Policy 3.1-4 states: “As required by the Coastal Act, development within wetland areas shall be limited to:

1. *Port facility construction or expansion, Section 30233(a)(1).*
2. *Energy facility construction or expansion, Section 30233(a)(1).*
3. *Coastal-dependent industrial facilities such as commercial fishing facilities, construction or expansion, section 30233 (a) (1).*
4. *Maintenance or restoration of dredged depths or previously dredged depths in: navigational channels, turning basins, vessel berthing and mooring areas, and associated with boat launching ramps.*
5. *In wetland areas, only entrance channels for new or expanded boating facilities may be constructed, except that in a degraded wetland, other boating facilities may be permitted under special circumstances, Section 30233(a)(3). New or expanded boating facilities may be permitted in estuaries, Section 30233(a)(4).*
6. *Incidental public services purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
7. *Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
8. *Nature study purposes and salmon restoration projects.*
9. *Aquaculture, or similar resource dependent activities excluding ocean ranching. (See Glossary)*

*In any of the above instances, the diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes, shall be permitted in accordance with all other applicable provisions of this plan. Such requirements shall include a finding that there is no feasible less environmentally damaging alternative and shall include mitigation measures required to minimize adverse environmental effects, in accordance with Sections 30233 and 30607, and other provisions of the Coastal Act.”*

Policy 3.1-7 states in applicable part, “A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide sufficient area to protect the environmentally sensitive habitat from significant degradation resulting from future developments. The width of the buffer area shall be a minimum of 100 feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning Staff, that 100 feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The

*buffer area shall be measured from the outside edge of the environmentally sensitive habitat areas and shall not be less than 50 feet in width. [emphasis added] New land division shall not be allowed which will create new parcels entirely within a buffer area. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent environmentally sensitive habitat area and must comply at a minimum with each of the following standards:*

1. *It shall be sited and designed to prevent impacts which would significantly degrade such areas;*
2. *It shall be compatible with the continuance of such habitat areas by maintaining their functional capacity and their ability to be self-sustaining and to maintain natural species diversity; and*
3. *Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel. Mitigation measures, such as planting riparian vegetation, shall be required to replace the protective values of the buffer area on the parcel, at a minimum ratio of 1:1, which are lost as a result of development under this solution.*

Section 20.308.130 (E) (wetland definition) of the Coastal Zoning Ordinance states in applicable part:

*“(E) ‘Wetlands’ means lands covered periodically or permanently with shallow water, including saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens. Wetlands are extremely fertile and productive environments. Tidal flushing from the ocean and/or nutrient-rich freshwater runoff mix to form a delicate balance responsible for their productivity. They function as nurseries for many aquatic species and serve as feeding and nesting areas for water fowl, shore birds and wading birds, as well as a few rare and endangered species such as the peregrine falcon.”*

Section 20.496.020 of the Coastal Zoning Ordinance states in applicable part:

*“ESHA- Development Criteria*

- (A) *Buffer areas. A buffer shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from degradation resulting from future developments and shall be compatible with the continuance of such habitat areas.*

- (1) *Width.*

*The width of the buffer area shall be a minimum of one hundred (100) feet, unless an applicant can demonstrate, after consultation with the California Department of Fish and Game, and County Planning staff, that one hundred feet is not necessary to protect the resources of that particular*

habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width [emphasis added]....Standards for determining the appropriate width of the buffer area are as follows:

- (a) *Biological Significance of Adjacent Lands.*  
*Lands adjacent to a wetland, stream, or riparian habitat area vary in the degree to which they are functionally related to these habitat areas. Functional relationships may exist if species associated with such areas spend a significant portion of their life cycle on adjacent lands. The degree of significance depends upon the habitat requirements of the species in the habitat area (e.g., nesting, feeding, breeding, or resting).*

*Where a significant functional relationship exists, the land supporting this relationship shall also be considered to be part of the ESHA, and the buffer zone shall be measured from the edge of these lands and be sufficiently wide to protect these functional relationships. Where no significant functional relationships exist, the buffer shall be measured from the edge of the wetland, stream, or riparian habitat that is adjacent to the proposed development.*

- (b) *Sensitivity of Species to Disturbance.* The width of the buffer zone shall be based, in part, on the distance necessary to ensure that the most sensitive species of plants and animals will not be disturbed significantly by the permitted development. Such a determination shall be based on the following after consultation with the Department of Fish and Game or others with similar expertise:
- (i) *Nesting, feeding, breeding, resting, or other habitat requirements of both resident and migratory fish and wildlife species;*
- (ii) *An assessment of the short-term and long-term adaptability of various species to human disturbance;*
- (iii) *An assessment of the impact and activity levels of the proposed development on the resource.*
- (c) *Susceptibility of Parcel to Erosion.* The width of the buffer zone shall be based, in part, on an assessment of the slope, soils, impervious surface coverage, runoff characteristics, and vegetative cover of the parcel and to what degree the development will change the potential for erosion. A sufficient buffer to allow for the interception of any additional material eroded as a result of the proposed development should be provided.

- (d) *Use of Natural Topographic Features to Locate Development. Hills and bluffs adjacent to ESHA's shall be used, where feasible, to buffer habitat areas. Where otherwise permitted, development should be located on the sides of hills away from ESHA's. Similarly, bluff faces should not be developed, but shall be included in the buffer zone.*
- (e) *Use of Existing Cultural Features to Locate Buffer Zones. Cultural features (e.g., roads and dikes) shall be used, where feasible, to buffer habitat areas. Where feasible, development shall be located on the side of roads, dikes, irrigation canals, flood control channels, etc., away from the ESHA.*
- (f) *Lot Configuration and Location of Existing Development. Where an existing subdivision or other development is largely built-out and the buildings are a uniform distance from a habitat area, at least that same distance shall be required as a buffer zone for any new development permitted. However, if that distance is less than one hundred (100) feet, additional mitigation measures (e.g., planting of native vegetation) shall be provided to ensure additional protection. Where development is proposed in an area that is largely undeveloped, the widest and most protective buffer zone feasible shall be required.*
- (g) *Type and Scale of Development Proposed. The type and scale of the proposed development will, to a large degree, determine the size of the buffer zone necessary to protect the ESHA. Such evaluations shall be made on a case-by-case basis depending upon the resources involved, the degree to which adjacent lands are already developed, and the type of development already existing in the area.*

Section 20.496.025 states in applicable part:

*“(B) Requirements for Permitted Development in Wetlands and Estuaries.*

*(1) Any proposed development that is a permitted development in wetlands and estuaries must meet the following statutory requirements...*

*(a) There is no feasible, less environmentally damaging alternative;*

*(b) Where there is no feasible, less environmentally damaging alternative, mitigation measures have been provided to minimize adverse environmental effects.”*

Discussion:

Wetlands Research Associates, Inc. conducted wetland delineation studies of the subject property in August, 1998. A report, dated September, 1998, describes the results: "The site was field reviewed for potential jurisdictional wetland areas and waters of the U.S., and sampling points were established to determine whether areas met the Corps' wetland criteria. Field data collected at 4 sampling points are given on Corps data sheets in Appendix A. From this sampling, potential jurisdictional wetlands were identified. No waters of the U.S. occur on the property... Potential jurisdictional wetlands occur along the northern and western property boundaries within the Study Area. Wetland indicators were found in a swale along the northern property boundary and in association with a drainage area that runs along the western property boundary."

The proposed development of the single-family residence, located in the lower southwest corner of the property, is constrained by the need to maintain a buffer for the wetlands, front and side-yard setbacks, the road right-of-way setback, the location of the curtain drain, and the required 100% leach field replacement area. As a result, there are very limited places to construct the residence and no one place to feasibly locate structures on the parcel that would be at least 100 feet away from all wetlands.

As set forth above, LUP Policy 3.1-7 and Zoning Code Section 20.496.020 require that buffer areas shall be established adjacent to all environmentally sensitive habitat areas to provide sufficient area to protect the environmentally sensitive habitat from significant degradation resulting from future developments. These provisions of the LCP state that the width of the buffer area shall be a minimum of one hundred (100) feet, unless an applicant can demonstrate, after consultation with the California Department of Fish and Game, and County Planning staff, that one hundred feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development, in which case the buffer can be reduced to not less than fifty (50) feet in width.

Coastal Zoning Code Section 20.496.020 (A) (1) (a) through (g) sets forth specific standards to be considered when determining the width of a buffer. These standards include: (a) an assessment of the biological significance of adjacent lands and the degree to which they are functionally related to wetland resources, (b) the sensitivity of species to disturbance such that the most sensitive species of plants and animals will not be disturbed significantly by the permitted development, (c) the susceptibility of the parcel to erosion determined from an assessment of the slope, soils, impervious surface coverage, runoff characteristics, and vegetative cover of the parcel, (d) the use of natural topographic features to locate development so that hills and bluffs adjacent to ESHA's can be used to buffer habitat areas, (e) use of existing cultural features such as roads and dikes to buffer habitat areas, (f) lot configuration and location of existing development such that buildings are a uniform distance from the habitat area, and provision for additional mitigation if the distance is less than 100 feet, and (g) the type and scale of

development proposed as a determining factor for the size of the buffer zone necessary to protect the ESHA.

As noted above, because of the extensive wetlands on the site, the large areas of the site encumbered by the road right-of-way and zoning code prescribed front and rear yard setbacks, and the fact that only one location on the property has been determined to be suitable for a septic system, development options are so constrained that it may not be feasible to develop even a small house on the property and maintain a minimum 100-foot buffer from all wetlands. The LCP policies and standards provide mechanisms for dealing with such situations. As noted above, the ESHA buffer may be reduced to 50 feet when the applicant presents appropriate evidence demonstrating that based on a review of the buffer width standards set forth in Coastal Zoning Ordinance Section 20.496.020 (A) (1), a narrower buffer would still protect the ESHA from significant disruption, and when the Department of Fish & Game agrees. Even where it is not appropriate to reduce the minimum buffer, limited development could still be approved within the buffer pursuant to LUP Policy 3.1-7 and Coastal Zoning Ordinance Section 20.496.020 (A) (4) if it can be demonstrated that (a) the development is generally the same as those uses permitted in the adjacent ESHA, (b) it will be sited and designed to prevent impacts which would significantly degrade such areas, (c) it will be compatible with the continuance of such habitat by maintaining the habitat's functional capacity and its ability to be self-sustaining and to maintain natural species diversity, and (d) there is no other feasible site available on the parcel and mitigation measures will be implemented to replace the protective values of the buffer area.

The County approval, however, does not include any evaluation of what an appropriate buffer width is in this case that is based on the standards of Coastal Zoning Ordinance Section 20.496.020(A).

None of the various biological and wetland studies performed for the project, including the *Delineation of Jurisdictional Wetlands and Waters of the United States*, conducted by Wetlands Research Associates, Inc. in 1998, as well as studies performed by Dr. Gordon McBride in August, 1998, and April, 2001, provide recommendations regarding the width of buffers that should be provided between proposed development and the wetlands on the site. Dr. McBride, in his April, 2001 letter does discuss the potential impact of installing a waterline between the existing well and proposed house site on the property. He refers, incorrectly, to "...the 50 foot buffer of the wetland (as established by Wetland Research Associates of San Rafael in 1998)." The Wetland Research Associates study of 1998, as contained in the County local record makes no buffer area recommendations. Dr. McBride continues by stating: "...the proposed waterline would not negatively impact the wetland if it is installed within the buffer area." Clearly, no evidence is presented in any of the three studies that substantiates that only a 50-foot buffer is adequate, and none of the reports address the factors set forth in Coastal Zoning Ordinance Section 20.496.020 (A) (1) (a) through (g) for determining the width of a buffer.



Furthermore, there is no evidence in the County local record that the California Department of Fish and Game was consulted with and agreed to a reduction of the buffer below the minimum standard of 100 feet. It is unclear if Fish & Game was even contacted about the project. As noted previously, LUP Policy 3.1-7 and Zoning Code Section 20.496.020 states that the width of a buffer shall be a minimum of 100 feet unless an applicant can demonstrate, after consultation with the Department of Fish and Game and County Planning Staff that one hundred feet is not necessary to protect the habitat resources.

In approving the project, the County imposed Special Condition No. 4 which requires that a 50-foot buffer be maintained and that temporary protective fencing be installed along the edge of the buffer during construction. The staff report states that protecting the ESHA with such temporary fencing during construction will maintain the functional capacity of the wetland, but no supporting documentation was provided to demonstrate that a 50-foot buffer with the mitigation measures required will be adequate to buffer the ESHA from the impacts of the approved development. In his action on the application, the Coastal Permit Administrator for the County added a finding stating that "Due to constraints of the property (slope, ESHA, visual considerations) and given the previous permit action to authorize a curtain drain on site 50 feet ...[from] an identified wetland, it is found that the development of the building site would not cause any significant environmental impact, and is consistent with the LCP." The Commission notes that the two factors cited by the Coastal Permit Administrator, constraints on development and the previous approval of a curtain drain 50 feet from wetlands on the site, do not address the standards set forth in Coastal Zoning Ordinance Section 20.496.020 (A) (1) (a) through (g) for determining the width of a buffer. These standards do not include development constraints or previous permit actions as factors in establishing buffer widths.

Furthermore, the findings for approval of the curtain drain contain no statement that a 50-foot buffer would be appropriate for future development of the site. In fact, the findings state: "Approval of this project does not create a vested right to residentially develop this site nor does it prejudice the County in future actions relating to the development of this site." The installation of a curtain drain could be expected to have less impact on wildlife usage of the nearby wetlands than the approved residences. The curtain drain is a below-ground feature that would not introduce additional noise or human activity that could disturb wildlife usage of the wetland as a residential building would.

The Commission finds that the degree of factual and legal support for the County's action is low, given that the required information necessary to justify a reduced ESHA buffer has not been presented. In addition, the Commission finds that the precedential value of the County's action in regard to future interpretations of the LCP is relatively high given that on other projects recently appealed to the Commission, A-1-MEN-02-012, Brorsen

and Egelston, was approved by the County with a 50-foot buffer without the direct consultation and agreement of Fish and Game.

Therefore, the Commission finds that the project as approved raises a substantial issue of conformance with the provisions of LUP Policies 3.1-7 and Coastal Zoning Ordinance Section 20.496.020 concerning establishment of buffers between future development on a parcel and existing ESHA because the development as approved would not provide for the establishment of a buffer width based on the standards set forth in Coastal Zoning Ordinance Section 20.496.020 (A) (1) (a) through (g). Furthermore, the Commission finds that the project as approved raises a substantial issue of conformance with the provisions of LUP Policy 3.1-7 and Coastal Zoning Ordinance Section 20.496.020 (A) (1) for reducing the minimum buffer below 100 feet as no evidence has been provided that all the necessary criteria for reducing the buffer to a width less than 100 feet have been satisfied.

#### **Information Needed for de Novo Review of Application**

As stated above, Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which an appeal has been filed. Section 30621 of the Coastal Act instructs the Commission to provide for a de novo hearing on all appeals where it has determined that a substantial issue exists with respect to the grounds on which an appeal has been filed. If the Commission finds substantial issue as recommended above, staff also recommends that the Commission continue the de novo hearing to a subsequent date. The de novo portion of the appeal must be continued because the Commission does not have sufficient information to determine what, if any, development can be approved, consistent with the certified LCP and the public access and recreation policies set forth in the Coastal Act.

Given that the project that the Commission will be considering de novo, has come to the Commission after an appeal of a local government action, the Commission has not previously been in the position to request information from the applicant needed to determine if the project can be found to be consistent with the certified LCP and the public access and recreation policies of the Coastal Act. Following is a discussion of the information needed to evaluate the development.

#### **Supplemental Wetland Survey**

Wetlands Research Associates, Inc. conducted wetland delineation studies of the subject property in August, 1998. Their studies and report entitled *Delineation of Jurisdictional Wetlands and Waters of the United States (Section 404 of the Clean Water Act)* dated September, 1998, were requested by Bob Spies, the applicant, "...to determine the presence of wetlands and waters subject to federal jurisdiction under Section 404 (Clean Water Act) and the presence of navigable waters (Section 10 Rivers and Harbors Act)..." The report states "The delineation studies determined the presence or absence of wetland

indicators used by the U.S. Army Corps of Engineers in making a jurisdictional determination. The three criteria used to delineate wetlands are the presence of: (1) hydrophytic vegetation, (2) wetland hydrology, and (3) hydric soils. According to the Corps of Engineers Wetland Delineation Manual (1987): "...[E]vidence of a minimum of one positive wetland indicator from each parameter (hydrology, soil, and vegetation) must be found in order to make a positive wetland delineation." The report goes on to say "sampling points were established to determine whether areas met the Corps' wetland criteria. Field data collected at 4 sampling points are given on Corps data sheets in Appendix A. From this sampling, potential jurisdictional wetlands were identified."

The presence of wetlands is often delineated based upon the three-fold criteria contained within the 1987 U.S. Army Corps of Engineers *Wetlands Delineation Manual* (i.e., occurrence of hydric soils, presence of surface or near-surface hydrology, hydrophyte prevalence). Although appropriate for designating "jurisdictional wetlands" subject to the federal permitting requirements of Section 404 of the Clean Water Act, the presence of all three wetland indicators is not similarly required for purposes of establishing the presence of wetlands pursuant to the California Coastal Act and the certified Mendocino County LCP.

The certified Local Coastal Program includes the same definition of wetlands as is found in the California Coastal Act. LUP Policy 3.1-2 states "*the criteria used for determining the extent of wetlands and other wet environmentally sensitive habitat areas are found in Appendix 8 and shall be used when determining the extent of wetlands.*" Appendix 8 consists of a copy of a portion of the 1981 Coastal Commission Interpretive Guidelines dealing with technical criteria for identifying and mapping wetlands and other ESHA. The guidelines indicate that a site can be a wetland if the hydrological criteria are present alone, or if hydrology and either hydrophytic vegetation or hydric soils are present. Thus, the LCP definition of wetlands includes more lands as wetlands than the definition in the federal Clean Water Act used by the Army Corps of Engineers. Therefore, because the wetland survey performed for the site in 1998 only identified wetlands based on the Clean Water Act definition and not on the LCP definition, it is possible that there might be more wetlands on the site than identified by the County. In addition, during a field review of the project site on February 27, 2002, Commission staff noted additional boggy areas on the property, particularly in an area just west of the existing well, that are not identified as wetlands in the 1998 wetland delineation or County staff report. Accordingly, a new wetland survey examining current conditions and using the LCP definition of wetlands is needed to ensure that all areas requiring protection as wetlands under the LCP are identified.

#### Buffers for Environmentally Sensitive Habitat Areas

The applicants propose that a 50-foot buffer as measured from the 1998 WRA delineation be utilized to protect the wetland habitat on the site from impacts of the proposed development. As discussed previously, LUP Policies require minimum 100-foot buffers

protecting ESHA resources unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game and County Department of Planning and Building staff, that a 100-foot buffer is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. Standards to be used for determining the appropriate widths for ESHA buffer areas are set forth in Section 20.496.020 (A) (1) (a) through (g).

None of the biological information provided by the applicant, and relied upon by the County in approving the project, (including the wetland study and report performed by Wetlands Research Associates, Inc. in 1998, and the two letters authored by Dr. Gordon McBride), provide an evaluation of the width of buffer needed, based on the standards in 20.496.020 (A) (1) (a) through (g), and consistent with the criteria for determining wetlands set forth in LUP Policy 3.1-2. Such an evaluation prepared by a qualified biologist is needed to determine what width of buffer is appropriate and whether the buffer can be reduced to 50 feet under the criteria specified in the LCP. If an evaluation provides a basis for a buffer of less than 100 feet, then staff will be able to share the evaluation with the Department of Fish & Game and seek the Department's opinion as to whether Department staff agree that a narrower buffer is sufficient.

#### Information Needed to Evaluate Project Consistency With Coastal Act Section 30010

It is possible that the wetland survey and the evaluation of the width of the appropriate buffer requested above may indicate that there is no feasible site to build a residence and still maintain the minimum required buffer from the wetlands on the site. In that event, application of the ESHA and ESHA buffer policies of the certified LCP by themselves to the project may require denial of the project. However, the Commission must also consider Section 30010, and the United States Supreme Court decision in Lucas v. South Carolina Coastal Council (1992) 505 U.S., 112 S.Ct. 2886.

Section 30010 of the Coastal Act provides that the Coastal Act shall not be construed as authorizing the Commission to exercise its power to grant or deny a permit in a manner which will take private property for public use. Application of Section 30010 may overcome the presumption of denial in some instances. The subject of what government action results in a "taking" was addressed by the U.S. Supreme Court in Lucas v. South Carolina Coastal Council (1992). In Lucas, the Court identified several factors that should be considered in determining whether a proposed government action would result in a taking. For instance, the Court held that where a permit applicant has demonstrated that he or she has a sufficient real property interest in the property to allow the proposed project, and that project denial would deprive his or her property of all economically viable use, then denial of the project by a regulatory agency might result in a taking of the property for public use unless the proposed project would constitute a nuisance under State law. Another factor that should be considered is the extent to which a project denial would interfere with reasonable investment-backed expectations.

The Commission interprets Section 30010, together with the Lucas decision, to mean that if an applicant demonstrates that Commission denial of the project would deprive his or her property of all reasonable economic use, the Commission may be required to allow some development even where a Coastal Act policy would otherwise prohibit it, unless the proposed project would constitute a nuisance under state law. In other words, the ESHA and ESHA buffer policies of the certified Mendocino Local Coastal Program cannot be read to deny all economically beneficial or productive use of land because these policies cannot be interpreted to require the Commission to act in an unconstitutional manner. In complying with this requirement, however, a regulatory agency may deny a specific development proposal, while indicating that a more modest alternative proposal could be approved, and thus assure the property owner of some economically viable use.

Therefore, if the information derived from the requested wetland survey and buffer width evaluation indicate that the project cannot be found consistent with the ESHA and ESHA buffer policies of the certified Mendocino Local Coastal Program, the Commission will need to evaluate whether an alternative proposal could be approved, and if not, whether denial of the project would interfere with the applicant's reasonable investment-backed expectations. In that event, the Commission will need to request additional information from the applicant concerning alternative proposals and the applicant's reasonable investment-backed expectations to make such determinations prior to holding a de novo hearing on the project.

Without the above information concerning the adequacy of protection for ESHA resources, the Commission cannot reach a final determination concerning the project's consistency with the ESHA policies of the LCP. Therefore, before the Commission can act on the proposed project de Novo, the applicant must submit all of the above-identified information.

Exhibits:

1. Regional Location Map
2. Vicinity Map
3. Site Plan
4. Notice of Final Action & Staff Report
5. Spies Curtain Drain Permit CDP #85-98
6. Appeal
7. LUP Appendix 8- California Coastal Commission Statewide Interpretive Guidelines

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*PROJECT SITE*

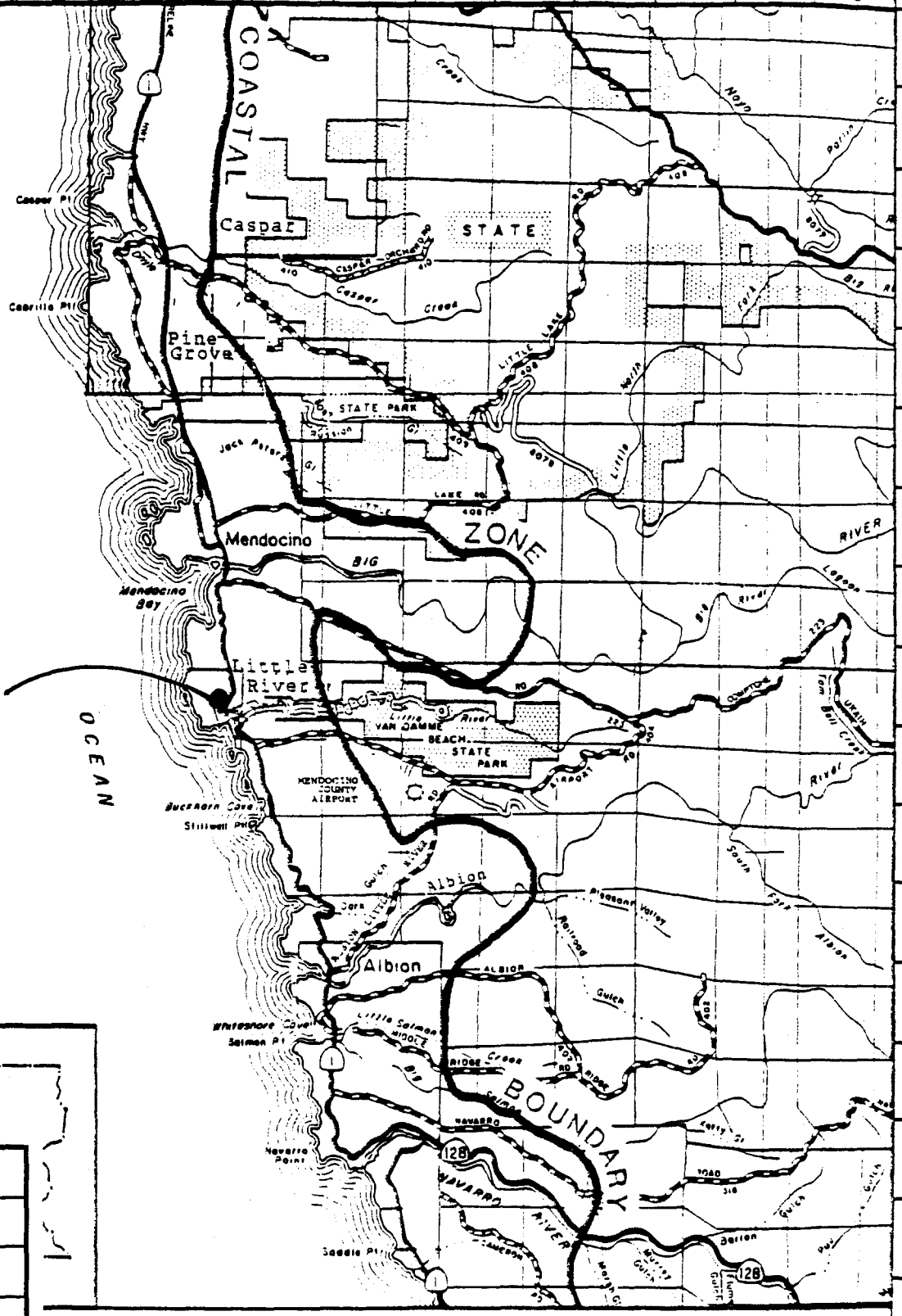
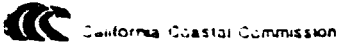
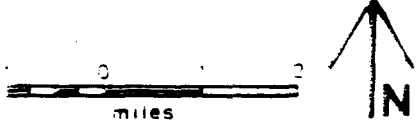


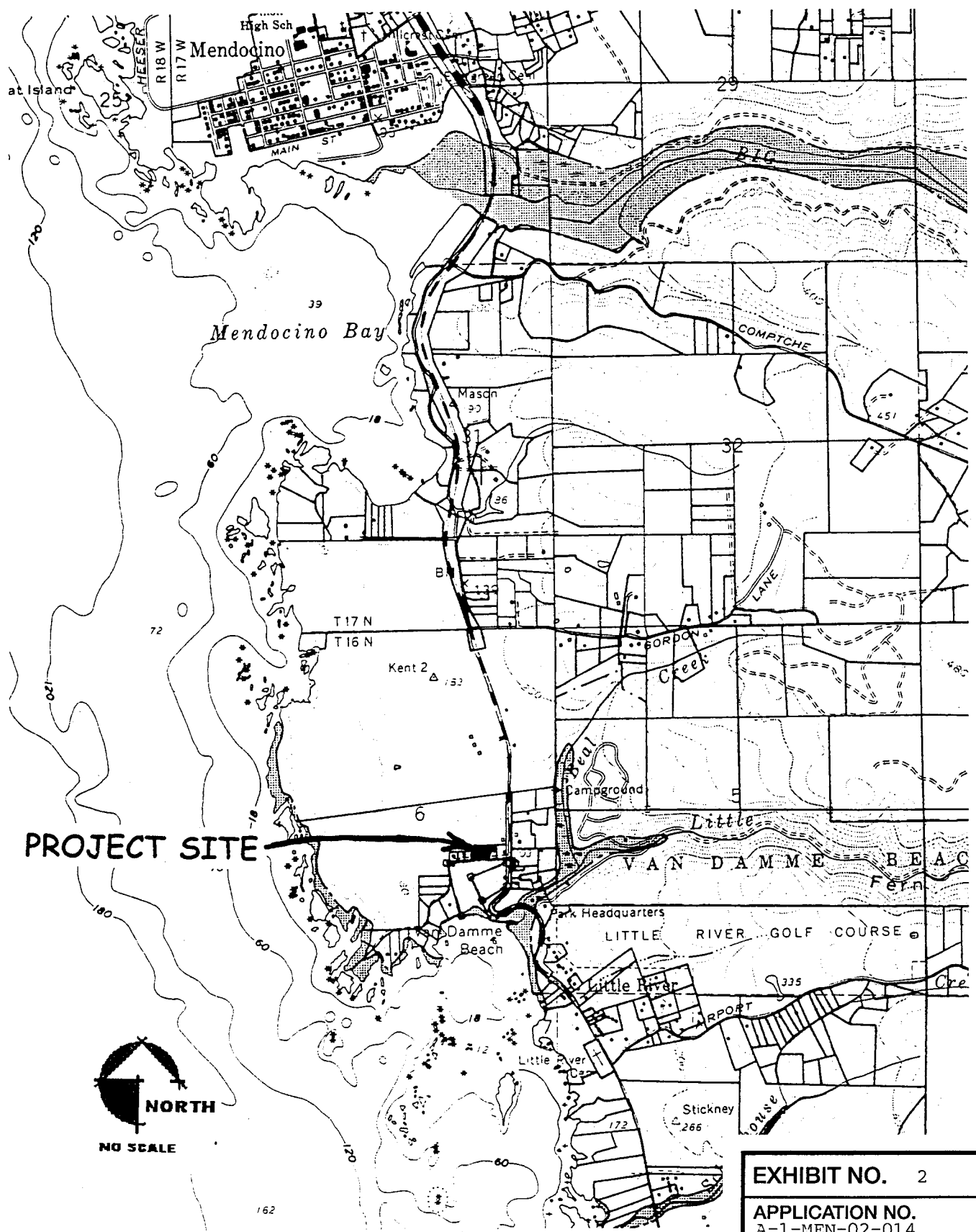
EXHIBIT NO.	1
APPLICATION NO.	A-1-MEN-02-014
SPIES	
REGIONAL LOCATION MAP	



# LOCATION MAP



County of Mendocino



**PROJECT SITE**



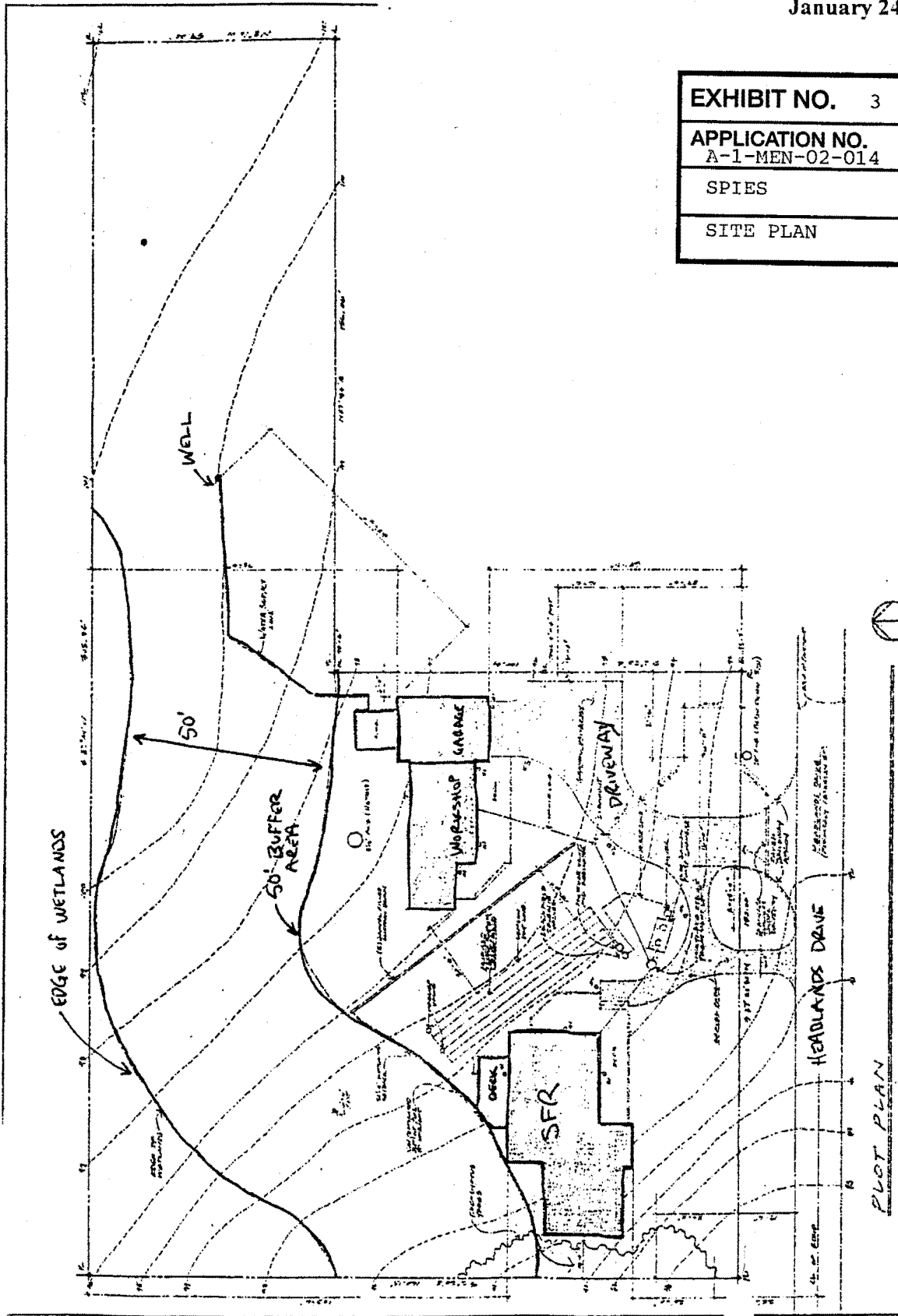
<b>EXHIBIT NO.</b> 2
<b>APPLICATION NO.</b> A-1-MEN-02-014
SPIES
VICINITY MAP

EXHIBIT NO. 3

APPLICATION NO.  
A-1-MEN-02-014

SPIES

SITE PLAN



PLAT PLAN





RAYMOND HALL  
DIRECTOR

TELEPHONE  
(707) 964-5379

COUNTY OF MENDOCINO  
DEPARTMENT OF PLANNING AND BUILDING SERVICES

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

<b>EXHIBIT NO.</b>	4
<b>APPLICATION NO.</b>	A-1-MEN-02-014
SPIES	
NOTICE OF FINAL	
ACTION & STAFF	
REPORT (1 of 21)	

February 4, 2002

**NOTICE OF FINAL ACTION**

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

**CASE#:** CDP #80-01  
**OWNER:** Robert & Ann Spies  
**AGENT:** Bud Kamb  
**REQUEST:** Construct a 1,980 square foot single-family residence with a maximum height of 28 feet above average natural grade. Construct a 590 square foot personal workshop attached to a 420 square foot garage, workshop/garage structure to have a maximum height of 18 feet above average natural grade. The applicant proposes to use the workshop for temporary occupancy while constructing the single-family residence. Install a new driveway, septic system and water supply system from an existing test well. Remove approximately 16 eucalyptus trees adjacent to the residence building site and 1 pine tree adjacent to the workshop building site.

**LOCATION:** Approximately 2 miles S of the town of Mendocino, W side of Highway One, N side of Peterson Street (private) approximately 400 feet W of its intersection with Highway One at 45100 Peterson Street (APN 121-260-20).

**PROJECT COORDINATOR:** Rick Miller

**HEARING DATE:** January 24, 2002

**APPROVING AUTHORITY:** Coastal Permit Administrator

**ACTION:** Approved with Conditions.

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

The project was not appealed at the local level.

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

**RECEIVED**

FEB 07 2002

CALIFORNIA  
COASTAL COMMISSION

COASTAL PERMIT ADMINISTRATOR ACTION SHEET

CASE#: CDP 80-01 HEARING DATE: 1/24/02

OWNER: Spier

ENVIRONMENTAL CONSIDERATIONS:

Categorically Exempt

Negative Declaration

EIR

FINDINGS:

Per staff report

Modifications and/or additions

Add: Due to constraints of property (slope, ESTHA, visual considerations) and given the previous permit action to authorize a certain drain on-site ~~at~~ within 50 ft. of identified wetland, it is found that development of this building site would not cause any significant environmental impact, and is consistent with the L.C.P.

ACTION:

Approved

Denied

Continued \_\_\_\_\_

CONDITIONS:

Per staff report

Modifications and/or additions



Signed: Coastal Permit Administrator

2 of 21

STAFF REPORT FOR  
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 80-01  
January 24, 2002  
CPA-1

**OWNER:** Robert B. & Ann E. Spies  
PO Box 824  
Livermore, CA 94550

**AGENT:** Bud Kamb  
PO Box 616  
Little River, CA 95456

**REQUEST:** Construct a 1,980 sq. ft. single family residence with a maximum height of 28 feet above average natural grade. Construct a 590 sq. ft. personal workshop attached to a 420 sq. ft. garage, structure to have a maximum height of 18 feet above average natural grade. The applicant proposes to utilize the workshop for temporary occupancy while constructing the single family residence. Install a new driveway, septic system and water supply system from an existing test well. Remove approximately 16 eucalyptus trees adjacent to the residence building site and 1 pine tree adjacent to the workshop building site.

**LOCATION:** Approximately 2 miles south of the Town of Mendocino, on the west side of Highway One, on the north side of Peterson Street (Pvt.) approximately 400 feet west of its intersection with Highway One at 45100 Peterson Street (AP# 121-260-20).

**APPEALABLE AREA:** Yes (highly scenic area & west of 1<sup>st</sup> public road).

**PERMIT TYPE:** Standard

**TOTAL ACREAGE:** ¾ ± acres

**ZONING:** RR: L-5 [RR]

**GENERAL PLAN:** RR-5 [RR-1]

**EXISTING USES:** Vacant (curtain drain installed per CDP 85-98).

**SUPERVISORIAL DISTRICT:** 5

**ENVIRONMENTAL DETERMINATION:** Categorically Exempt, Class 3 (a)

**OTHER RELATED APPLICATIONS:** Coastal Development Permit #85-98 (PAC 3-98) authorized the installation of a curtain drain up slope of a proposed septic system. The curtain drain was intended to intercept underground water from the north to dry out an area for placement of a future septic system. Natural resources were reviewed under this permit including a wetland delineation and rare plant survey. See the natural resources section of this staff report for a complete discussion.

3021

STAFF REPORT FOR  
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 80-01  
January 24, 2002  
CPA-2

**PROJECT DESCRIPTION:** The applicant proposes to construct a 1,980 sq. ft. single family residence with a maximum height of 28 feet above average natural grade in the southwest corner of a ¼ acre parcel. In addition, a 590 sq. ft. personal workshop attached to a 420 sq. ft. garage would be constructed east of the main residence. The workshop/garage structure would have a maximum height of 18 feet above average natural grade. The applicant proposes to utilize the workshop as a residence for temporary occupancy while constructing the proposed single family residence. Therefore, the workshop would be constructed with a full bathroom and a temporary kitchen and prior to occupancy of the main residence the kitchen would be removed and the bathroom would be converted to a convenience bathroom with a sink and toilet only (see Special Condition #1). When the project is completed the site would contain a 1,980 sq. ft. single family residence and a personal workshop/garage accessory structure. A new driveway and culvert would be installed onto Peterson Street to serve the development. An on-site septic system would be installed between the residence and workshop/garage. A water supply system would be developed utilizing an existing test well located northeast of the workshop/garage structure. A grove of approximately 16 eucalyptus trees adjacent to the residence building site and one pine tree adjacent to the workshop building site would be removed in order to site the proposed structures.

**LOCAL COASTAL PROGRAM CONSISTENCY RECOMMENDATION:** The proposed project is consistent with the applicable goals and policies of the Local Coastal Program as described below.

Land Use. The proposed development is compatible with the Rural Residential zoning district and is designated as a principal permitted use per Section 20.376.010(A) of the MCC. The maximum building height at this location is 18 feet above average natural grade unless an increase in height would not affect public views, in which case it would be limited to 28 feet above average natural grade. The minimum setback from the front and rear property lines is 20 feet and 6 feet on the side property lines. In addition, a corridor preservation setback of 25 feet is required from the centerline of Peterson Street for a total of 45 feet in the "front" yard. The maximum height of the proposed residence is 28 feet above average natural grade. The maximum building height of the proposed garage/workshop building would be 18 feet above average natural grade. All proposed improvements meet the setback requirements stated above. Therefore, the proposed project complies with the maximum building height and setback requirements of the Rural Residential zoning district.

Temporary occupancy of the proposed personal workshop as a residence while constructing the primary dwelling is permitted as a temporary use per Chapter 20.460 of the MCC and Special Condition #1.

Public Access. The project site is located west of Highway 1, but is not a blufftop site and is not designated as a potential public access trail location on the LUP maps. There is no evidence of prescriptive access on the site.

The Planning Division received a memorandum by Ron Munson, California Department of Parks and Recreation Mendocino District Chief Ranger, dated October 4, 2001. The memo states:

*"State Parks would be supportive of any efforts on the part of the owner and the adjacent landowner to the west to establish public easement for a trail through the eucalyptus grove to provide connectivity between Van Damme State Park and the Spring Ranch, but the granting of the building permit is not intended to be conditional on this trail provision."*

4 of 21

STAFF REPORT FOR  
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 80-01  
January 24, 2002  
CPA-3

The Planning Division is not recommending any exaction for public access across the subject parcel in conjunction with this development proposal for two main reasons. First, more analysis of the potential impact to the identified wetland on the parcel would need to be conducted prior to establishing an access easement. Second, the immediate area supports a large amount of public access at both the Van Damme State Park and the Spring Ranch. The proposed development would not interfere with the existing public access in the project area.

Hazards. The project site is less than one acre in size and is exempt from CDF's fire safety regulations. Fire safety issues are addressed as part of the building permit process. The proposed development would be located on slopes which are less than 20% and the development does not present any issues relative to erosion and/or slope failure. There are no known faults, landslides or other geologic hazards in close proximity to the proposed development.

Visual Resources. The project site is located within a designated "highly scenic area" but is only visible from Highway One for a few seconds and is screened by existing vegetation and neighboring structures. The proposed development would not be visible from Van Damme State Beach. Although the main residence would have a maximum height of approximately 28 feet above average natural grade, exceeding the 18 feet height limit in a designated "highly scenic area" west of Highway One, the increase in height would not have a significant impact on public views to or along the ocean. The garage/workshop building has a maximum height of 18 feet above average natural grade. At staff's request story poles were erected from the main residence to verify that the development would not be visible from the state beach. In regard to any visual impact of the development on the State Park, Ron Munson, State Parks' Chief Ranger, states in a memo dated October 4, 2001:

*"...The Monterrey Cypress to the north of the project provide sufficient vegetative screening to mitigate any viewshed concerns from the Spring Ranch park property to the north. If the 28 foot height conforms with Planning Department zoning restrictions, State Parks has no issue with the height of the proposed residence, since it is lower than the surrounding tree line and does not substantially exceed the height of neighboring buildings."*

It is worth noting that further west of the project site when Peterson Street turns into Headlands Drive development does become visible from the state beach and for a greater stretch along Highway One. Development on Headlands Drive has a greater potential visual impact to public views than on the subject parcel. The subject parcel is located approximately 400 feet west of Highway One and is surrounded by other two story structures such as Rachel's Inn. Nonetheless, due to the project location in a designated highly scenic area, the following policies apply.

Policy 3.5-1 of the Mendocino County Coastal Element states:

*"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. New development in highly scenic areas designated by the County of Mendocino Coastal Element shall be subordinate to the character of its setting."*

5921

STAFF REPORT FOR  
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 80-01  
January 24, 2002  
CPA-4

Policy 3.5-3 states:

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

*"...In addition to other visual policy requirements, new development west of Highway One in designated highly scenic areas is limited to one-story (above natural grade) unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures...New development shall be subordinate to the setting and minimize reflective surfaces. Variances from this standard may be allowed for planned unit development(s) that provides clustering and other forms of meaningful mitigation."*

3.5-15 *"...No lights shall be installed so that they distract motorists and they shall be shielded so that they do not shine or glare beyond the limits of the parcel wherever possible."*

Sec. 20.504.015 (C) of the Coastal Zoning Code states in part:

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

The proposed structures would have the following exterior materials and finishes: Both the residence and the garage/workshop building would be clad with unstained cedar shingles on the upper portions and natural stained cedar horizontal clapboards below. The roof would be a dark composition shingle. The windows are to be double glazed metal clad wood windows. The window and door trim would be painted forest green. These natural finishes and materials should help the project blend in with the surrounding environment. Special Condition #2 is added to ensure the exterior building materials and finishes specified in this permit would not be changed without an amendment to the permit for the life of the project.

The submitted exterior lighting fixtures are not customarily approved because they are not shielded and downcast. However, the number of exterior lighting fixtures proposed is the minimum required for safety. Special Condition #3 requires that the applicant submit new lighting specifications to ensure compliance with exterior lighting requirements of Section 20.504.035 of the MCC. This Section of the MCC requires that the exterior lights shall be shielded or shall be positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the parcel.

Staff finds that the increase in height above 18 feet for the main residence would be consistent with the highly scenic area policies in this case. Staff finds the project to be consistent with the requirements for development in a "highly scenic area."

Natural Resources. The subject parcel is only  $\frac{3}{4}$  acre in size. In conjunction with coastal development permit #85-98, a botanical survey and a wetlands delineation report were submitted and analyzed by the Planning Division to allow for the installation of a curtain drain up slope of the proposed septic system. Gordon McBride Ph.D. prepared the rare plant survey dated August 10, 1998. The results of the survey were that no rare plant species were discovered on the subject parcel. Wetlands Research Associates, Inc. prepared a delineation of jurisdictional wetlands and waters of the United States report dated September 1998 for the subject parcel. The report states:

6 of 21

STAFF REPORT FOR  
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 80-01  
January 24, 2002  
CPA-5

*"Potential jurisdictional wetlands occur along the northern and western property boundaries. Wetland indicators were found in a swale along the northern property boundary and in association with a drainage area that runs along the western property boundary."*

The report determined there was 0.05 acres of Section 404 Wetlands and no Section 404 Waters on the property. The wetlands represent an environmentally sensitive habitat area (ESHA) which must be protected. When CDP #85-98 was approved a 50-foot buffer was established to protect and maintain the identified ESHA. The proposed structures proposed under this permit would also be outside the previously established 50-foot buffer area. However, the existing test well is located outside of the upland extent of the wetland area but is within the 50-foot buffer area. The existing well was drilled in November 1985 and was permitted by the Environmental Health Division under permit #2476. This well is the only possible on-site water source for the property due to the parcel size and septic system requirements. Therefore, the applicant needs to place a water supply line from the well to the garage for a domestic water source through the buffer area. Staff asked the applicant to have a botanist address this water line extension through the buffer area. Gordon McBride Ph.D. prepared a supplemental report dated April 12, 2001 to determine the potential impact to the environmentally sensitive habitat area. He states:

*"In my opinion the proposed waterline would not negatively impact the wetland if it is installed in the buffer area. A waterline ditch, either hand dug or excavated by a machine, would at most be of eight to ten inches wide, and as soon as the waterline and electric wiring to supply the pump were installed the soil would be backfilled. The vegetation adjacent to the backfilled ditch would, in only a portion of a growing season, reestablish itself over the waterline and would soon obliterate all evidence of the installation process."*

Chapter 20.496 and Section 20.532.060, et. seq. of the Coastal Zoning Code contain specific requirements for protection of ESHA's and development within the buffer area of an ESHA. A sufficient buffer area is required to be established and maintained to protect ESHA's from disturbances related to proposed development. Section 20.496.020 requires that:

*The width of the buffer area shall be a minimum of one hundred (100) feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning staff, that one hundred (100) feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width.*

Per section 20.420.020 of the Coastal Zoning code, development within ESHA buffer areas is permitted only in accordance with the following standards:

- (a) *Development shall be compatible with the continuance of the adjacent habitat area by maintaining the functional capacity, their ability to be self-sustaining and maintain natural species diversity.*
- (b) *Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel.*
- (c) *Development shall be sited and designed to prevent impacts which would degrade adjacent habitat areas. The determination of the best site shall include consideration of drainage, access, soil type,*

7 of 21

STAFF REPORT FOR  
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 80-01  
January 24, 2002  
CPA-6

*vegetation, hydrological characteristics, elevation, topography, and distance from natural stream channels. The term "best site" shall be defined as the site having the least impact on the maintenance of the biological and physical integrity of the buffer strip or critical habitat protection area and on the maintenance of the hydrologic capacity of these areas to pass a one hundred (100) year flood without increased damage to the coastal zone natural environment or human systems.*

Staff concurs that 50 feet would be sufficient to protect the resource values of the ESHA. Protecting the ESHA with temporary fencing during construction and maintaining the 50 foot non-disturbance buffer will maintain the functional capacity of the ESHA. Further, staff recommends allowing the water supply line extension through the buffer area. Findings 8, 9 and 10 are added to address the legal requirements for approval of the project with regard to the ESHA. Special Condition #4 requires that the 50 foot non-disturbance buffer measured from the edge of the environmentally sensitive habitat area remain in effect in perpetuity and that the edge of the buffer be fenced during construction so that disturbance does not occur. These conditions will ensure that human intrusion and disturbance of the habitat is avoided. If properly implemented, there should be no loss of habitat on the project site.

Archaeological/Cultural Resources. This project was referred to the Northwest Information Center of the California Historical Resources Inventory at Sonoma State University (SSU) for an archaeological records search. SSU responded that the site has a probability of containing archaeological resources and further investigation was recommended. The Mendocino Archaeological Commission responded that a survey was not required prior to commencement of project activities at their November 14, 2001 hearing. The applicant is advised by Standard Condition #8 of the County's "discovery clause" which establishes procedures to follow should archaeological materials be unearthed during project construction.

Groundwater Resources. The site is located within an area mapped as Marginal Water Resources area. Domestic water would be provided by an existing well located in the northeastern portion of the subject parcel. A county approved septic system would be installed between the proposed residence and workshop/garage structures to serve the proposed development. Darla Pimlott, Environmental Health Division, stated her Division would approve the project with two conditions. First, the garage/workshop must be connected to an approved septic system for the temporary occupancy use and is to remain connected for the convenience bathroom. Second, the garage/workshop is to be converted to nonresidential use after the completion of the single family residence. Special Conditions #1 and #5 are added to address the Environmental Health Division's concerns. The proposed project would have an incremental, but not significant, effect on groundwater resources.

Transportation/Circulation. The applicant would install a new paved driveway encroachment and drainage culvert along Peterson Street, a private road. While the project would contribute incrementally to traffic volumes on local and regional roadways, such incremental increases were considered when the LCP land use designations were assigned to the site.

Zoning Requirements. The project complies with the zoning requirements for the Rural Residential District set forth in Section 20.376.005, et. seq., and with all other zoning requirements of Division II of Title 20 of the Mendocino County Code.

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

8 of 21



STAFF REPORT FOR  
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 80-01  
January 24, 2002  
CPA-7

FINDINGS:

1. The proposed development is in conformity with the certified Local Coastal Program; and
2. The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities; and
3. The proposed development is consistent with the purpose and intent of the applicable zoning district, as well as all other provisions of Division II, and preserves the integrity of the zoning district; and
4. The proposed development, if constructed in compliance with the conditions of approval, will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act; and
5. The proposed development will not have any adverse impacts on any known archaeological or paleontological resource; and
6. Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development; and
7. The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and Coastal Element of the General Plan.
8. The identified watercourse will not be significantly degraded by the proposed development.
9. There is no feasible less environmentally damaging alternative.
10. All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.

STANDARD CONDITIONS:

1. This action shall become final on the 11<sup>th</sup> day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the ten (10) working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. The permit shall expire and become null and void at the expiration of two years after the effective date except where construction and use of the property in reliance on such permit has been initiated prior to its expiration.

To remain valid, progress towards completion of the project must be continuous. The applicant has sole responsibility for renewing this application before the expiration date. The County will not provide a notice prior to the expiration date.

2. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Division II of Title 20 of the Mendocino County Code.

9 of 21

STAFF REPORT FOR  
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 80-01  
January 24, 2002  
CPA-8

3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and that compliance therewith is mandatory, unless an amendment has been approved by the Coastal Permit Administrator.
4. That this permit be subject to the securing of all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.
5. The applicant shall secure all required building permits for the proposed project as required by the Building Inspection Division of the Department of Planning and Building Services.
6. This permit shall be subject to revocation or modification upon a finding of any one (1) or more of the following:
  - a. That such permit was obtained or extended by fraud.
  - b. That one or more of the conditions upon which such permit was granted have been violated.
  - c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety or as to be a nuisance.
  - d. A final judgment of a court of competent jurisdiction has declared one (1) or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one (1) or more such conditions.
7. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
8. If any archaeological sites or artifacts are discovered during site excavation or construction activities, the applicant shall cease and desist from all further excavation and disturbances within one hundred (100) feet of the discovery, and make notification of the discovery to the Director of the Department of Planning and Building Services. The Director will coordinate further actions for the protection of the archaeological resources in accordance with Section 22.12.090 of the Mendocino County Code.

10421

STAFF REPORT FOR  
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 80-01  
January 24, 2002  
CPA-9

SPECIAL CONDITIONS:

1. An administrative permit is hereby granted for temporary occupancy of the proposed workshop as a residence while constructing the proposed single family residence, subject to the following conditions of approval:
  - (a) The term of this administrative permit is valid for the period required to complete construction of the primary dwelling, but shall not exceed two years unless renewed. The administrative permit shall be effective on the effective date of CDP #80-01 and shall expire two years henceforth.
  - (b) The temporary residence shall be converted to a permitted accessory structure (i.e., personal workshop) prior to the final building inspection or occupancy of the permanent dwelling, whichever comes first. The required conversion shall include completely removing the bathing facilities from the bathroom (toilet and sink can remain but the shower or bathtub shall be removed) and removing the kitchen and any cooking facilities including kitchen plumbing, countertop and cabinets.
2. All exterior building materials and finishes shall match those specified in the coastal development permit application. Windows shall be made of non-reflective glass. Any change in approved colors or materials shall be subject to the review and approval of the Coastal Permit Administrator for the life of the project.
3. Prior to issuance of the building permit, the applicant shall submit an exterior lighting plan and design details or manufacturer's specifications for all the exterior lighting fixtures. Exterior lighting shall be kept to the minimum necessary for safety and security purposes and shall be downcast and shielded in compliance with Sec. 20.504.035 of the MCC.
4. The wetlands (ESHA) as indicated on the site plan shall be protected with a 50-foot buffer. No development, disturbance, or tree removal shall occur within the 50-foot buffer except for the water supply line from the existing well to the garage structure. Prior to start of construction, the applicant shall install temporary protective fencing located along the edge of the 50-foot buffer. Special attention and care shall be taken during construction of the residence to assure no disturbance occurs due to the close proximity of the house footprint and the 50-foot buffer line. No construction or equipment shall encroach into the 50 foot buffer area. The temporary fence shall extend the entire length of the 50-foot buffer (west and east lot line) and shall remain in place until the final building inspection of the main residence.
5. The garage/workshop shall be connected to an approved septic system prior to the temporary occupancy use.

11 2 21

STAFF REPORT FOR  
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 80-01  
January 24, 2002  
CPA-10

Staff Report Prepared By:

1/15/2002

Date

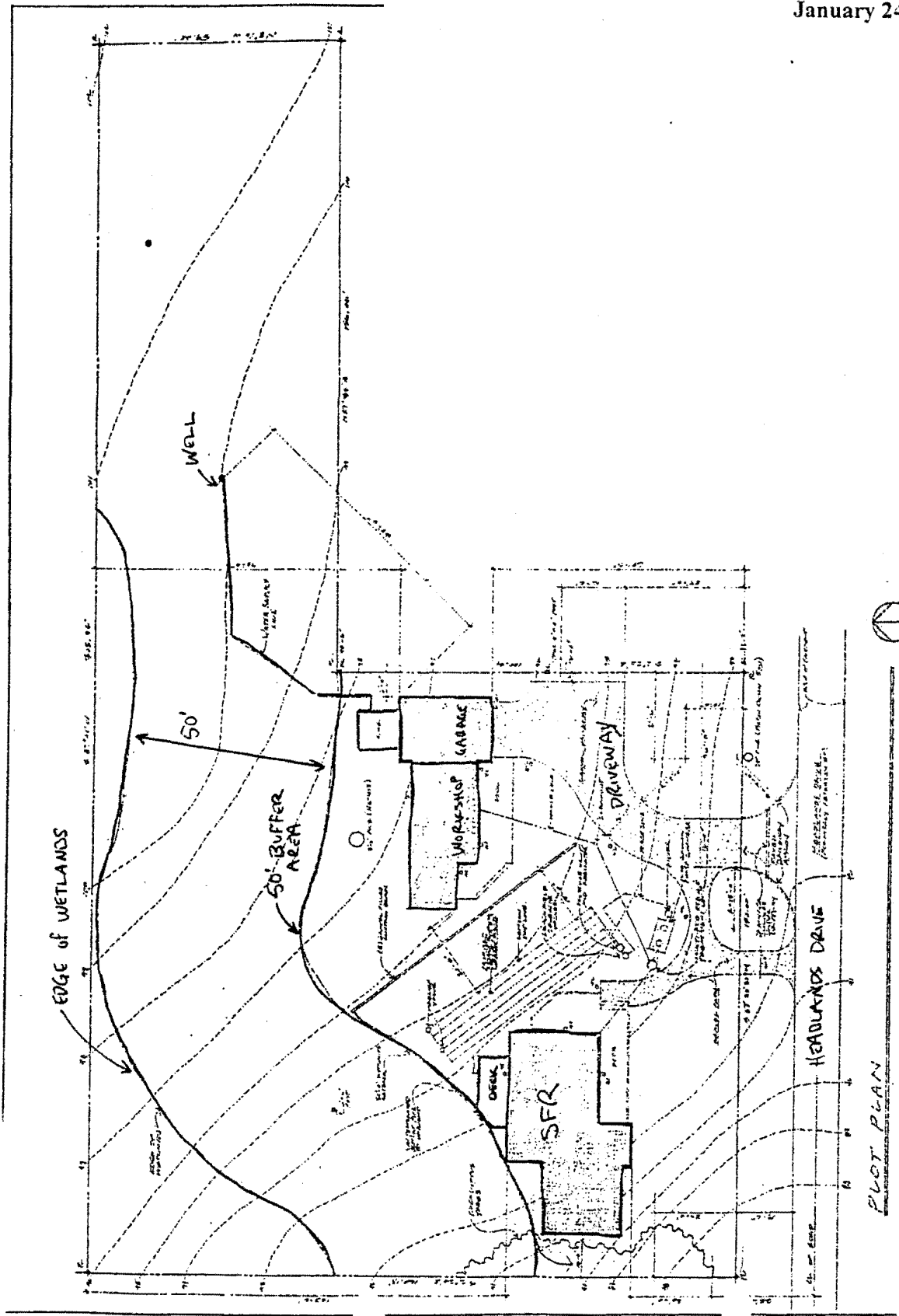
*Rick Miller*

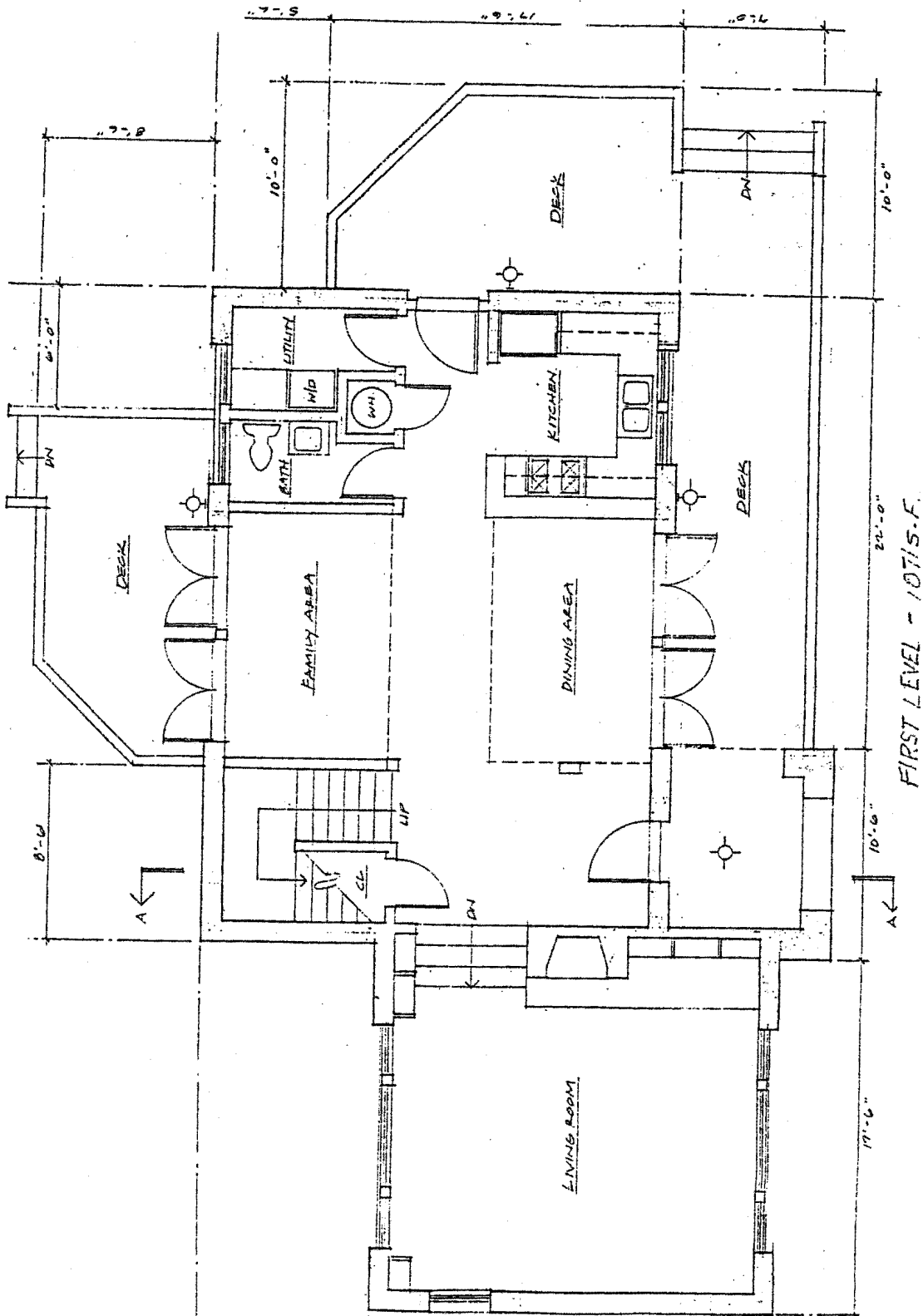
Rick Miller  
Coastal Planner

- Attachments:
- Exhibit A- Location Map
  - Exhibit B- Site Plan
  - Exhibit C- Residence Floor Plan
  - Exhibit D- Residence Floor Plan
  - Exhibit E- Residence Elevation
  - Exhibit F- Residence Elevation
  - Exhibit G- Residence Elevation
  - Exhibit H- Residence Elevation
  - Exhibit I- Workshop/Garage Floor Plan & Elevation
  - Exhibit J- Workshop/Garage Elevations

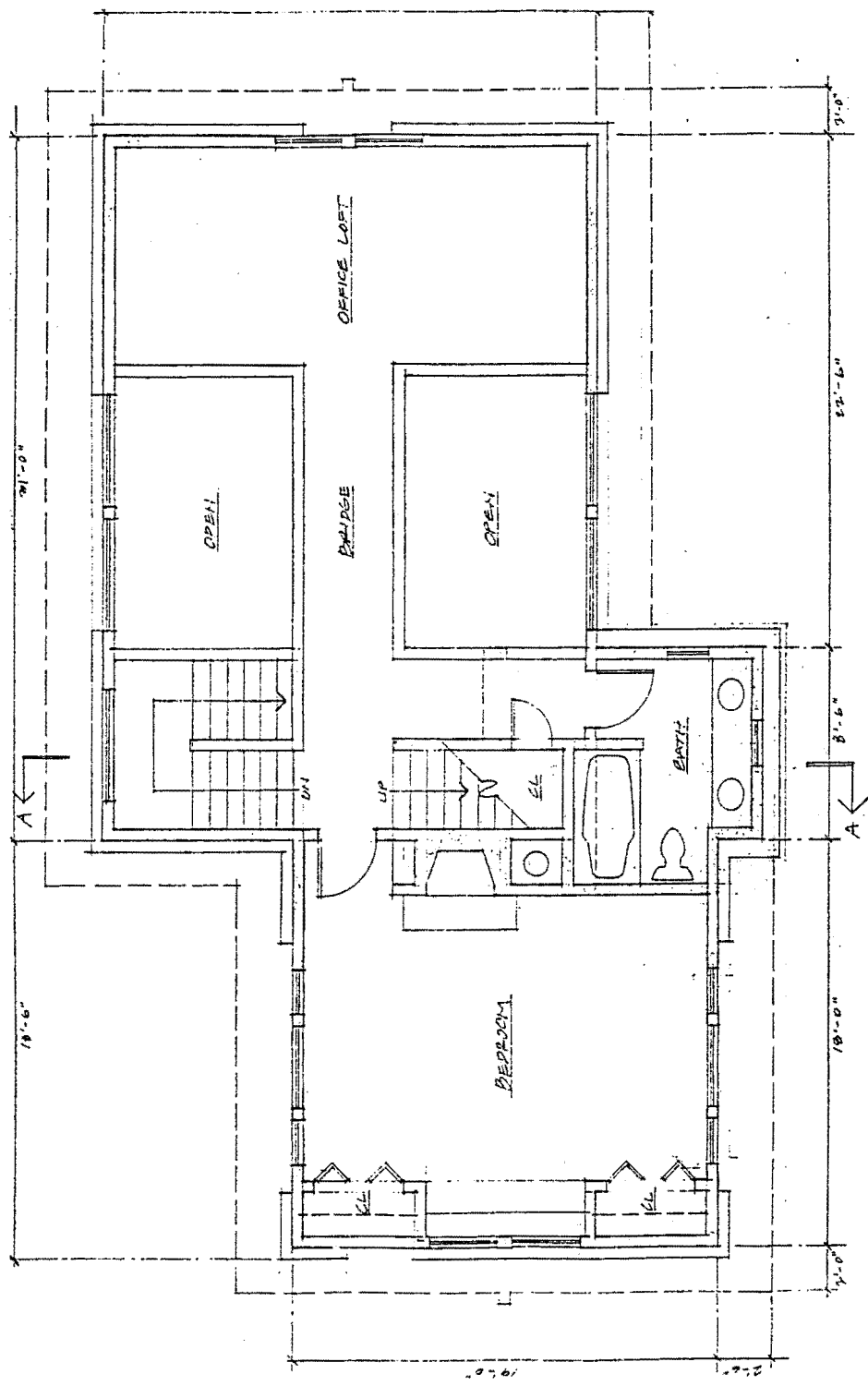
Appeal Period: 10 days  
Appeal Fee: \$555

12 of 21

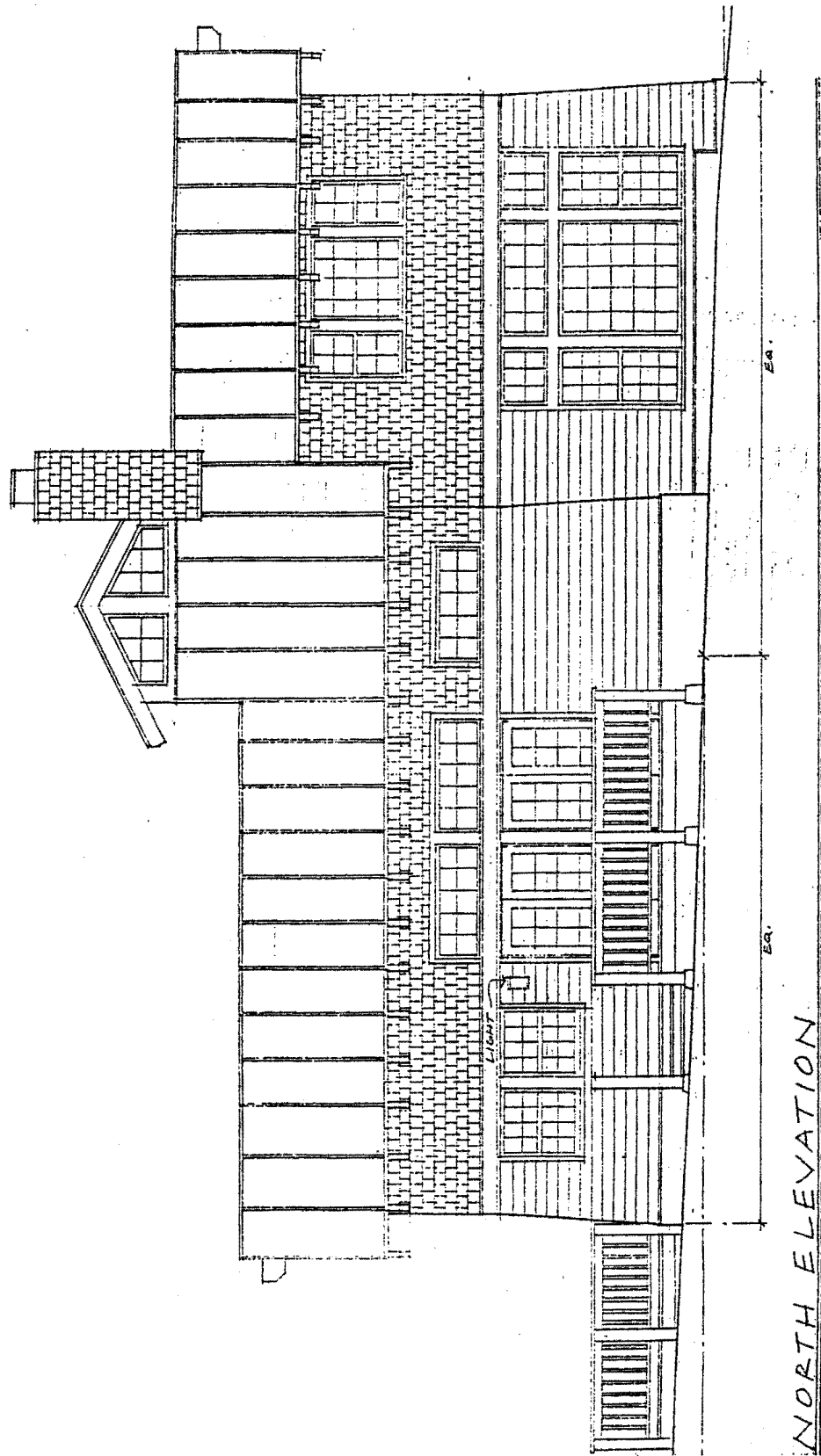




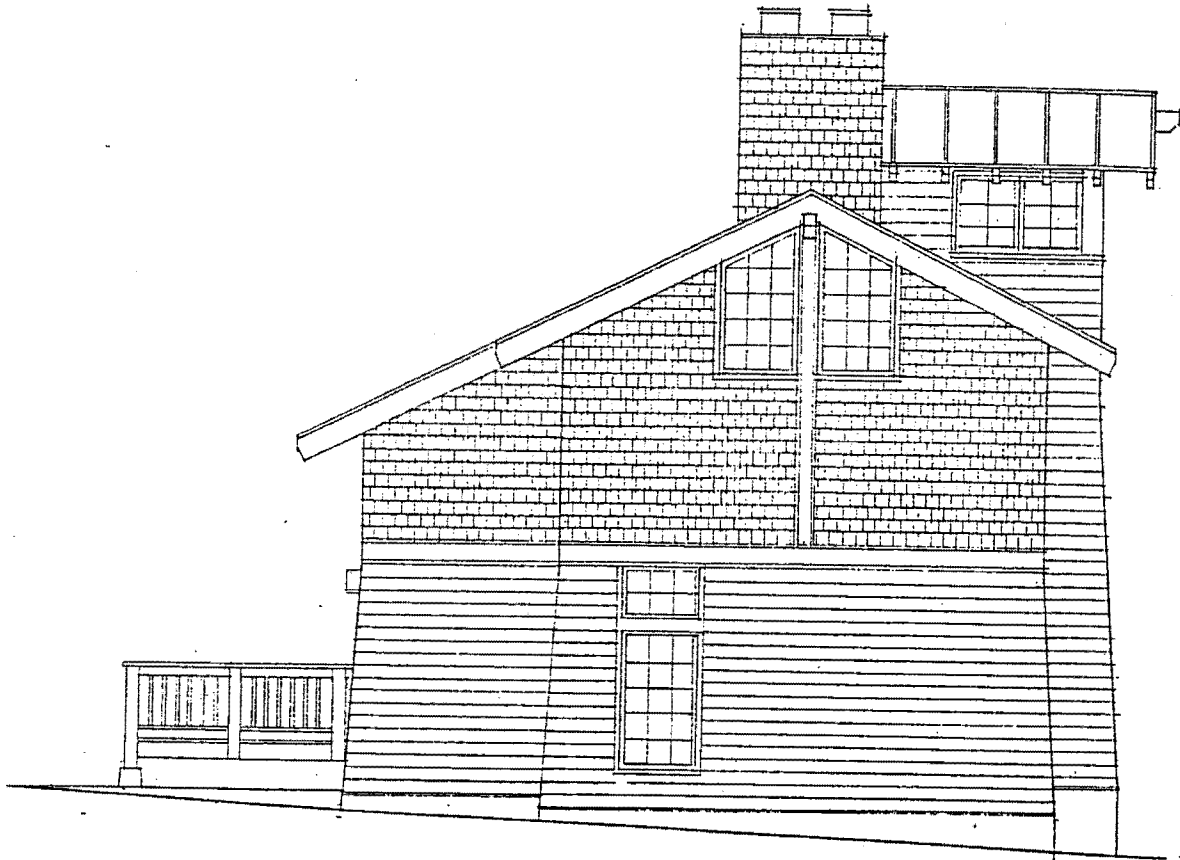
FIRST LEVEL - 107/5.6



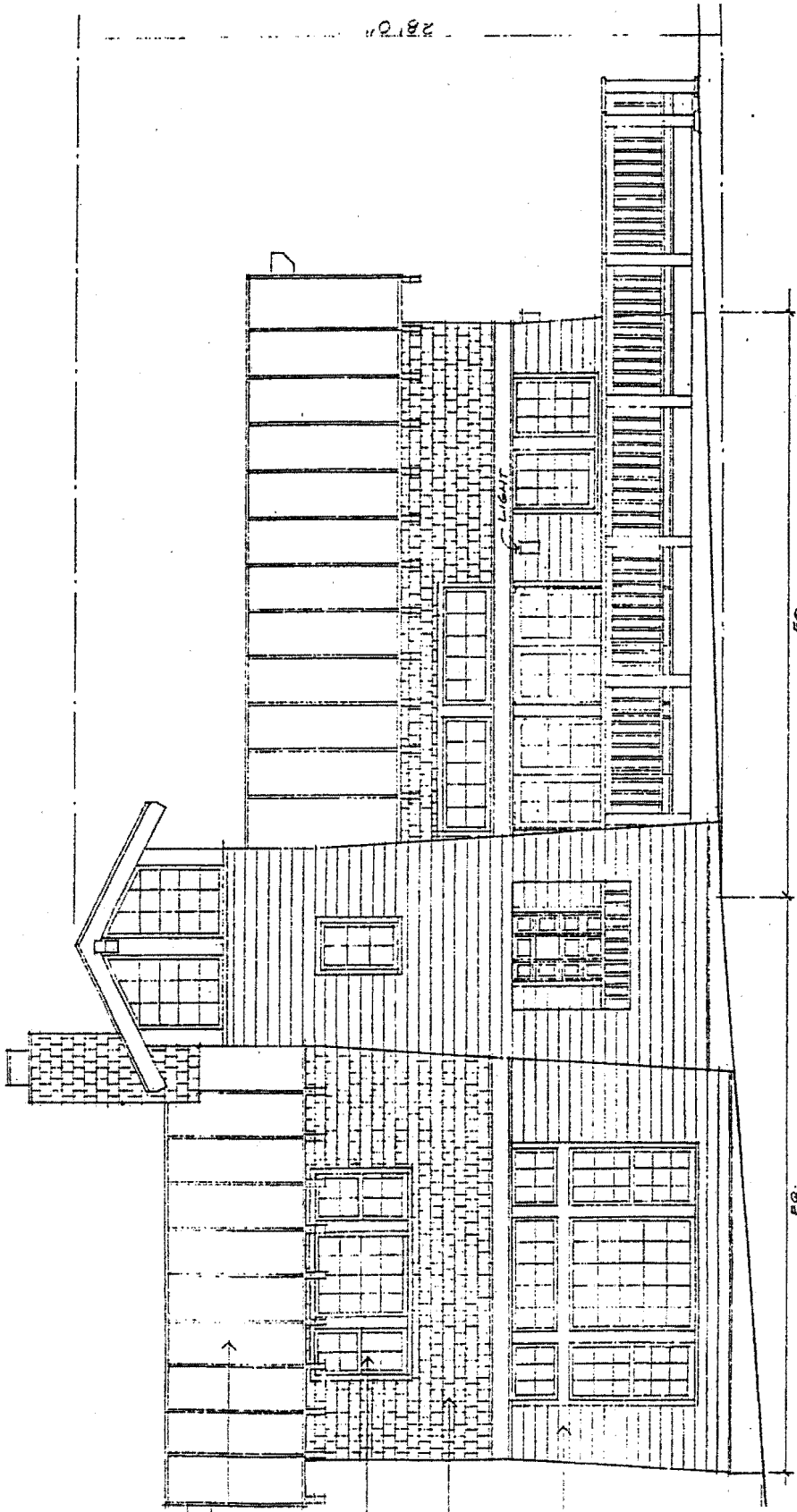
SECOND LEVEL PLAN - 010 G.F.



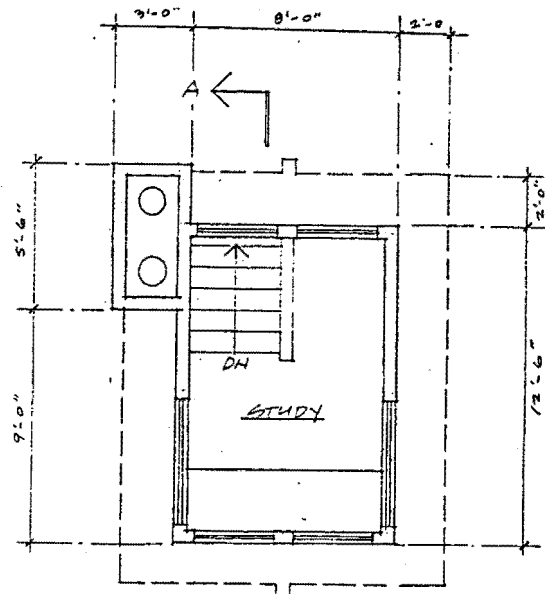




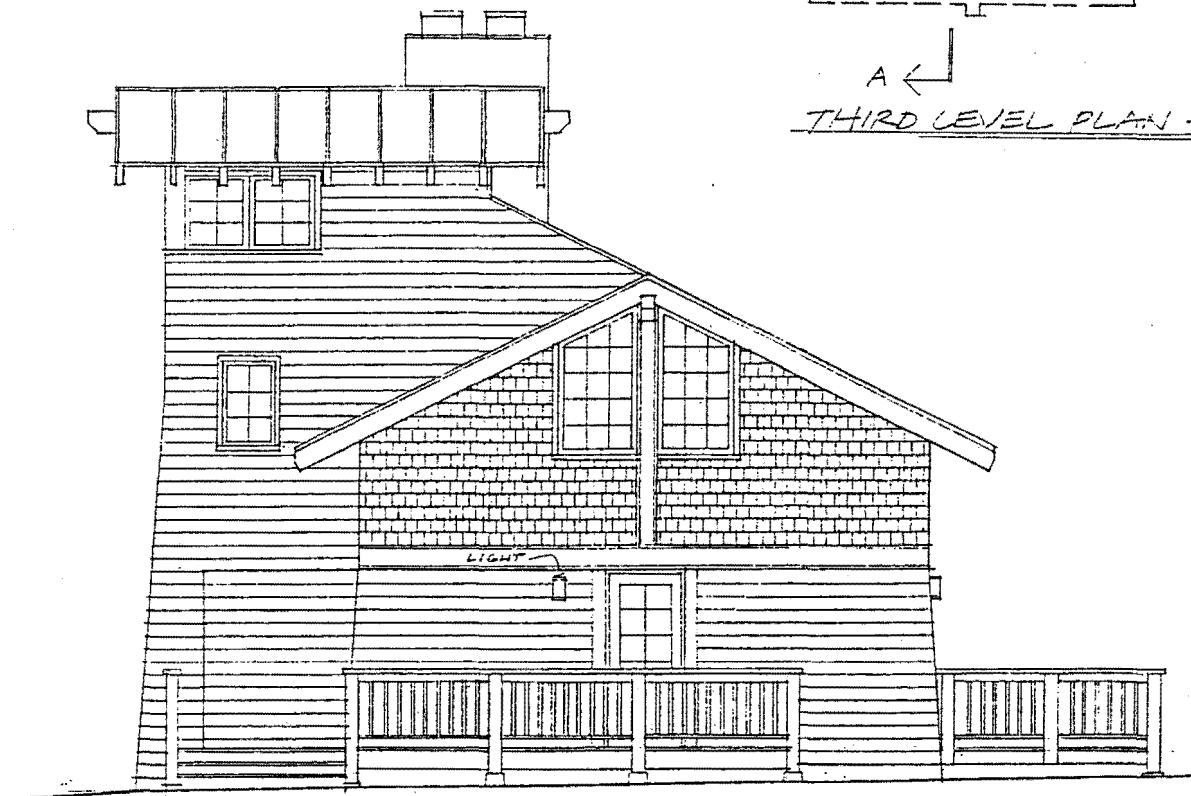
WEST ELEVATION



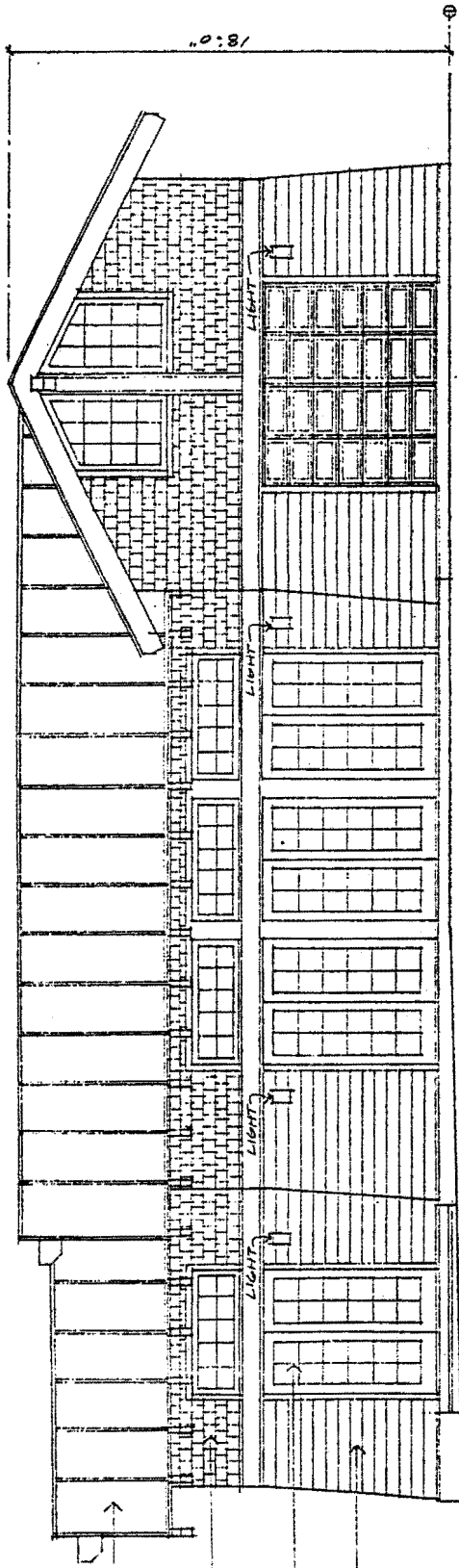
SOUTH ELEVATION



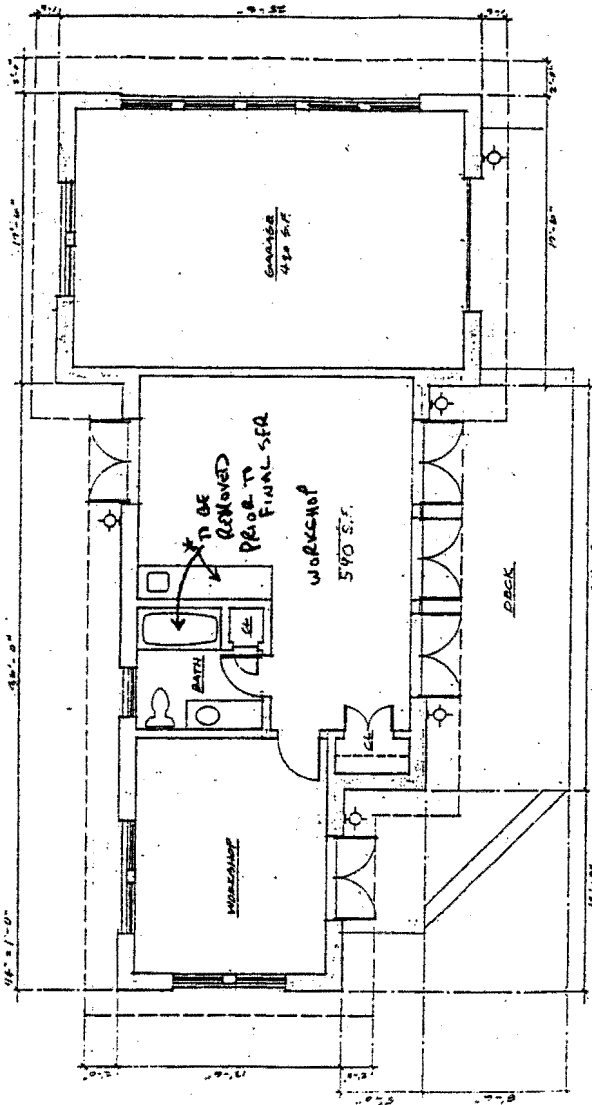
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THIRD LEVEL PLAN - 66 SF



EAST ELEVATION

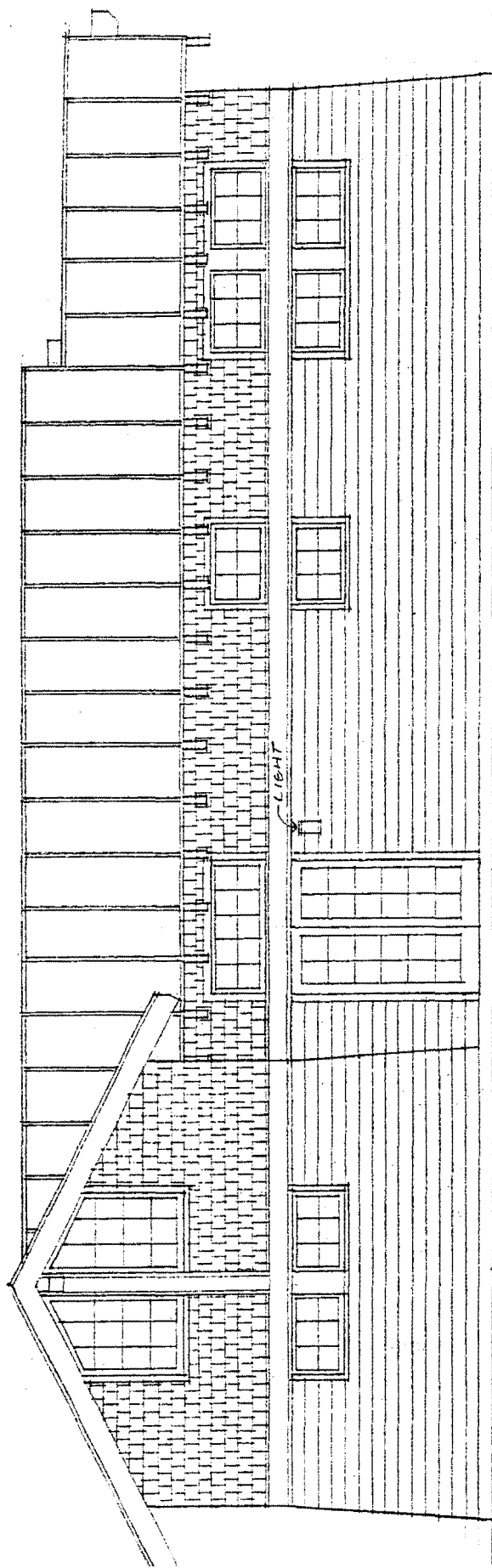


SOUTH ELEVATION

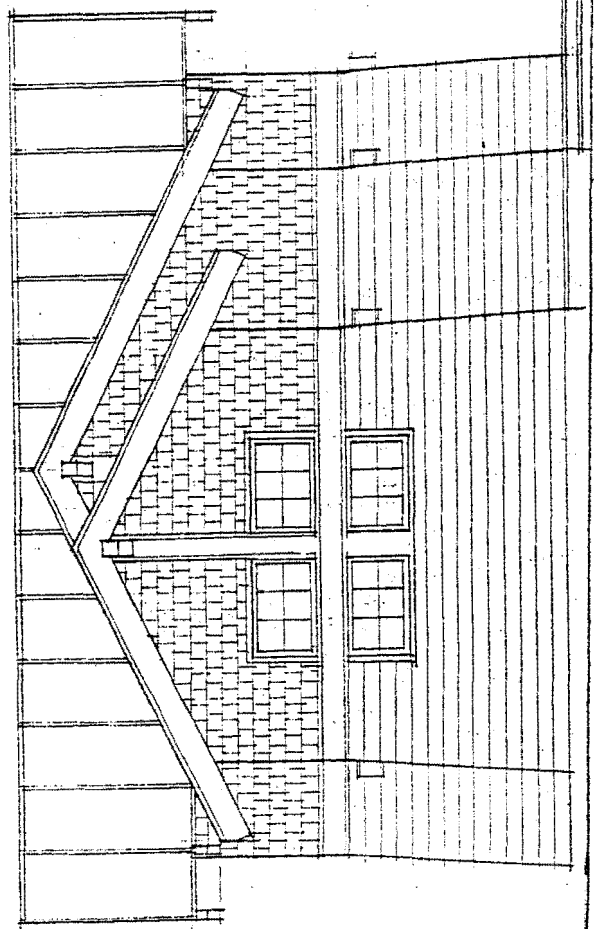


FLOOR PLAN

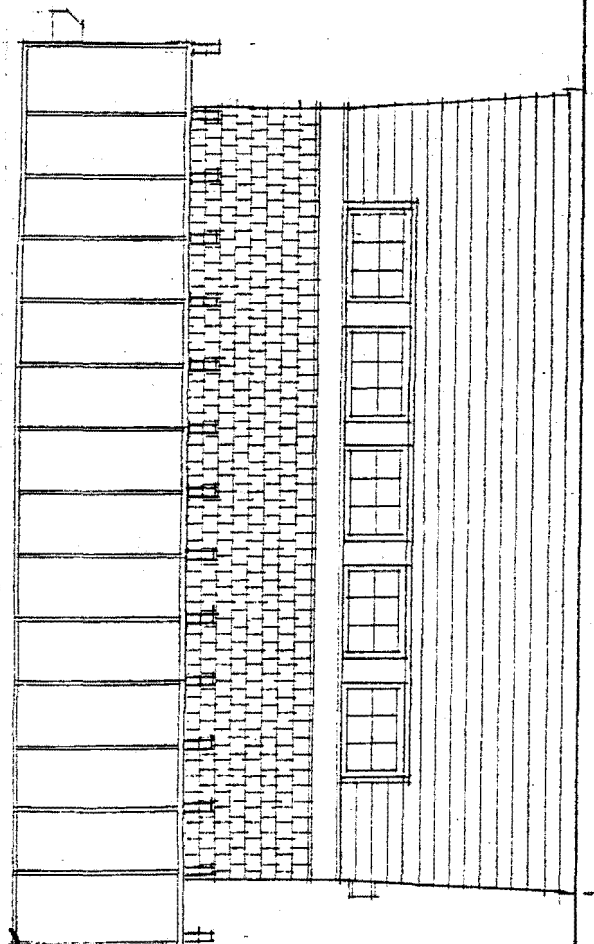
2025 RELEASE UNDER E.O. 14176



NORTH ELEVATION



WEST ELEVATION



EAST ELEVATION

21 of 21

### COASTAL PERMIT ADMINISTRATOR ACTION SHEET

CASE#: CDP #85-98

HEARING DATE: 1/28/99

OWNER: Sears

ENVIRONMENTAL CONSIDERATIONS:

Categorically Exempt

Negative Declaration

EIR

**RECEIVED**

MAR 14 2002

CALIFORNIA  
COASTAL COMMISSION

FINDINGS:

Per staff report

Modifications and/or additions

ACTION:

Approved

Denied

Continued \_\_\_\_\_

CONDITIONS:

Per staff report

Modifications and/or additions

*LEK for Adam Fallis*

Signed: Coastal Permit Administrator

EXHIBIT NO. 5
APPLICATION NO. A-1-MEN-02-014
SPIES CURTAIN DRAIN PERMIT
CDP #85-98 (1 of 8)

STAFF REPORT FOR  
STANDARD COASTAL DEVELOPMENT PERMITCDP# 85-98  
January 28, 1999  
CPA-1

**OWNER:** Murven & Helen Sears  
136 Hahola Street  
Makawao, Maui, HI 96768

**AGENT:** Bob & Ann Spies  
P.O. Box 824  
Livermore, CA 94550

**REQUEST:** Installation of a curtain drain 70 feet long and 4 feet deep with a 3/4" washed drain rock, filter fabric, 8 mil plastic and 4" perforated drain pipe. Ditch to be 12"-18" wide to be used to test the feasibility of a future septic system.

**LOCATION:** In the coastal zone, on the north side of Headlands Drive (Peterson Street), approximately 400 feet west of its intersection with Highway One at 45100 Headlands Drive (APN 121-260-20).

**APPEALABLE AREA:** Yes (within 300 feet of the bluff).

**PERMIT TYPE:** Standard

**TOTAL ACREAGE:** .75 acres

**ZONING:** RR:L-5 [RR]

**GENERAL PLAN:** RR-5 [RR-1]

**EXISTING USES:** Vacant (well)

**SUPERVISORIAL DISTRICT:** 5

**GOV'T CODE 65950 DATE:** May 11, 1999

**ENVIRONMENTAL DETERMINATION:** Categorical Exemption, Class 4(f)

**OTHER RELATED APPLICATIONS:** None

**PROJECT DESCRIPTION:** The applicant proposes to install a curtain drain up slope of a potential future septic system. The curtain drain is intended to intercept underground water from the north to dry out an area for placement of a future septic system.

**LOCAL COASTAL PROGRAM CONSISTENCY RECOMMENDATION:** The proposed project is consistent with the applicable goals and policies of the Local Coastal Program as described below. A  indicates that the statement regarding policy consistency applies to the proposed project.

2 of 8

STAFF REPORT FOR  
STANDARD COASTAL DEVELOPMENT PERMITCDP# 85-98  
January 28, 1999  
CPA-2Land Use

- The proposed use is compatible with the zoning district and is designated as a principal permitted use or a permitted accessory use.

Public Access

- The project site is located west of Highway 1, but is not a blufftop site and is not designated as a potential public access trail location on the LUP maps. There is no evidence of prescriptive access on the site.

Hazards

- The project site is less than one acre in size and is exempt from CDF's fire safety regulations. Fire safety issues are addressed as part of the building permit process.
- The proposed development would be located on slopes which are less than 20% and the development does not present any issues relative to erosion and/or slope failure.
- There are no known faults, landslides or other geologic hazards in close proximity to the proposed development.

Visual Resources

- The project site is located within a highly scenic area, however all improvements would be placed underground. Therefore there will not be an impact to visual resources.

Natural Resources

- A rare plant survey was prepared by Gordon McBride Ph.D. No rare plant species were discovered.
- A delineation of jurisdictional wetlands and waters of the United States was prepared by Wetlands Research Associates, Inc. The report states: *"Potential jurisdictional wetlands occur along the northern and western property boundaries. Wetland indicators were found in a swale along the northern property boundary and in association with a drainage area that runs along the western property boundary."*

According to the plans, the curtain drain would be installed more than 50 feet from the edge of the wetlands. It is not anticipated that the project would have a substantial impact on the wetlands as the curtain drain simply redirects the groundwater around the potential septic area. Because the drain is placed a minimum of fifty feet from the delineated wetland, the probability of a siphoning effect on the wetland area is minimal. Therefore the size and quality of the identified wetland area should not be affected.

Archaeological/Cultural Resources

- The project site is not located in an area where archaeological and/or cultural resources are likely to occur. The applicant is advised by Standard Condition #8 of the County's "discovery clause" which establishes procedures to follow should archaeological materials be unearthed during project.

3 of 8



**STAFF REPORT FOR  
STANDARD COASTAL DEVELOPMENT PERMIT**CDP# 85-98  
January 28, 1999  
CPA-3**Groundwater Resources**

- The project will affect the direction of the flow of the uppermost four feet of groundwater in the proximity of the drain. However, overall groundwater quality or quantity should not be affected. To reduce the alteration to the existing groundwater flows, staff is recommending special condition #1 to require that in the event the curtain drain is unsuccessful, the site would be restored to its previous condition.

**Transportation/Circulation**

- The proposed project would not increase the intensity of use at the site. No impacts to Highway 1, local roads and circulation systems would occur.

**Zoning Requirements**

- The project complies with all of the zoning requirements of Division II of Title 20 of the Mendocino County Code.

**Other Issues**

The placement of the curtain drain in the proposed location leaves little room to site a residence which meets the required setbacks from the wetlands, property lines, the road, septic system, replacement area and the park. Analysis of a complete residential project may reveal site constraints that would further limit development of this site for residential purposes. Approval of this project does not create a vested right to residentially develop this site nor does it prejudice the County in future actions relating to the development of this site.

**PROJECT FINDINGS AND CONDITIONS:** Pursuant to the provisions of Chapter 20.532 and Chapter 20.536 of the Mendocino County Code, the Coastal Permit Administrator approves the proposed project, and adopt the following findings and conditions.

**FINDINGS:**

1. The proposed development is in conformity with the certified Local Coastal Program; and
2. The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities; and
3. The proposed development is consistent with the purpose and intent of the applicable zoning district, as well as all other provisions of Division II, and preserves the integrity of the zoning district; and
4. The proposed development, if constructed in compliance with the conditions of approval, will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act; and
5. The proposed development will not have any adverse impacts on any known archaeological or paleontological resource; and

4 of 8

STAFF REPORT FOR  
STANDARD COASTAL DEVELOPMENT PERMITCDP# 85-98  
January 28, 1999  
CPA-4

6. Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.
7. The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and Coastal Element of the General Plan.

## STANDARD CONDITIONS:

1. This action shall become final on the 11<sup>th</sup> day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the ten (10) working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. The permit shall expire and become null and void at the expiration of two years after the effective date except where construction and use of the property in reliance on such permit has been initiated prior to its expiration.

To remain valid, progress towards completion of the project must be continuous. The applicant has sole responsibility for renewing this application before the expiration date. The County will not provide a notice prior to the expiration date.

2. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Division II of Title 20 of the Mendocino County Code.
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and that compliance therewith is mandatory, unless an amendment has been approved by the Coastal Permit Administrator.
4. That this permit be subject to the securing of all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.
5. The applicant shall secure all required building permits for the proposed project as required by the Building Inspection Division of the Department of Planning and Building Services.
6. This permit shall be subject to revocation or modification upon a finding of any one (1) or more of the following:
  - a. That such permit was obtained or extended by fraud.
  - b. That one or more of the conditions upon which such permit was granted have been violated.
  - c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety or as to be a nuisance.
  - d. A final judgment of a court of competent jurisdiction has declared one (1) or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one (1) or more such conditions.

548

STAFF REPORT FOR  
STANDARD COASTAL DEVELOPMENT PERMITCDP# 85-98  
January 28, 1999  
CPA-5

7. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
8. If any archaeological sites or artifacts are discovered during site excavation or construction activities, the applicant shall cease and desist from all further excavation and disturbances within one hundred (100) feet of the discovery, and make notification of the discovery to the Director of the Department of Planning and Building Services. The Director will coordinate further actions for the protection of the archaeological resources in accordance with Section 22.12.090 of the Mendocino County Code.

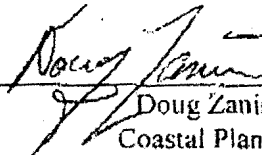
## SPECIAL CONDITIONS:

1. At the conclusion of testing the curtain drain, it shall be determined by the soil scientist in consultation with County Department Environmental Health whether a septic system is feasible. If it is determined that the curtain drain is inadequate to facilitate a septic system, the applicant shall remove all improvements and restore the site to its pre-construction condition within 45 days of the conclusion of testing.

Staff Report Prepared By:

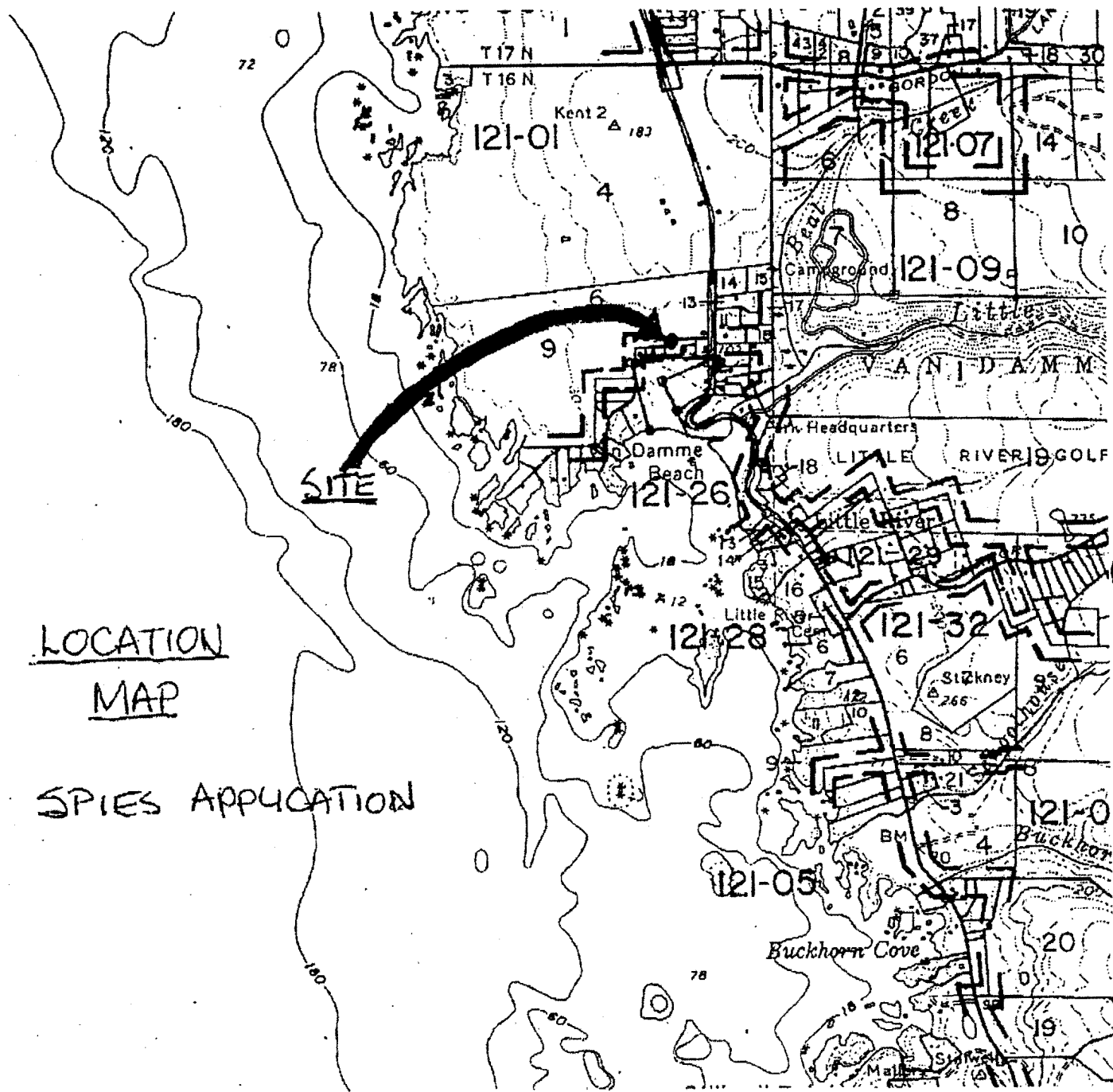
12-28-98

Date

  
\_\_\_\_\_  
Doug Zanini  
Coastal PlannerAttachments: Exhibit A: Location Map  
Exhibit B: Site PlanAppeal Period: 10 days  
Appeal Fee: \$555

STAFF REPORT FOR  
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 85-98  
January 28, 1999  
CPA-6



LOCATION  
MAP

SPIES APPLICATION

EXHIBIT A

LOCATION MAP

798

STAFF REPORT FOR  
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 85-98  
January 28, 1999  
CPA-7

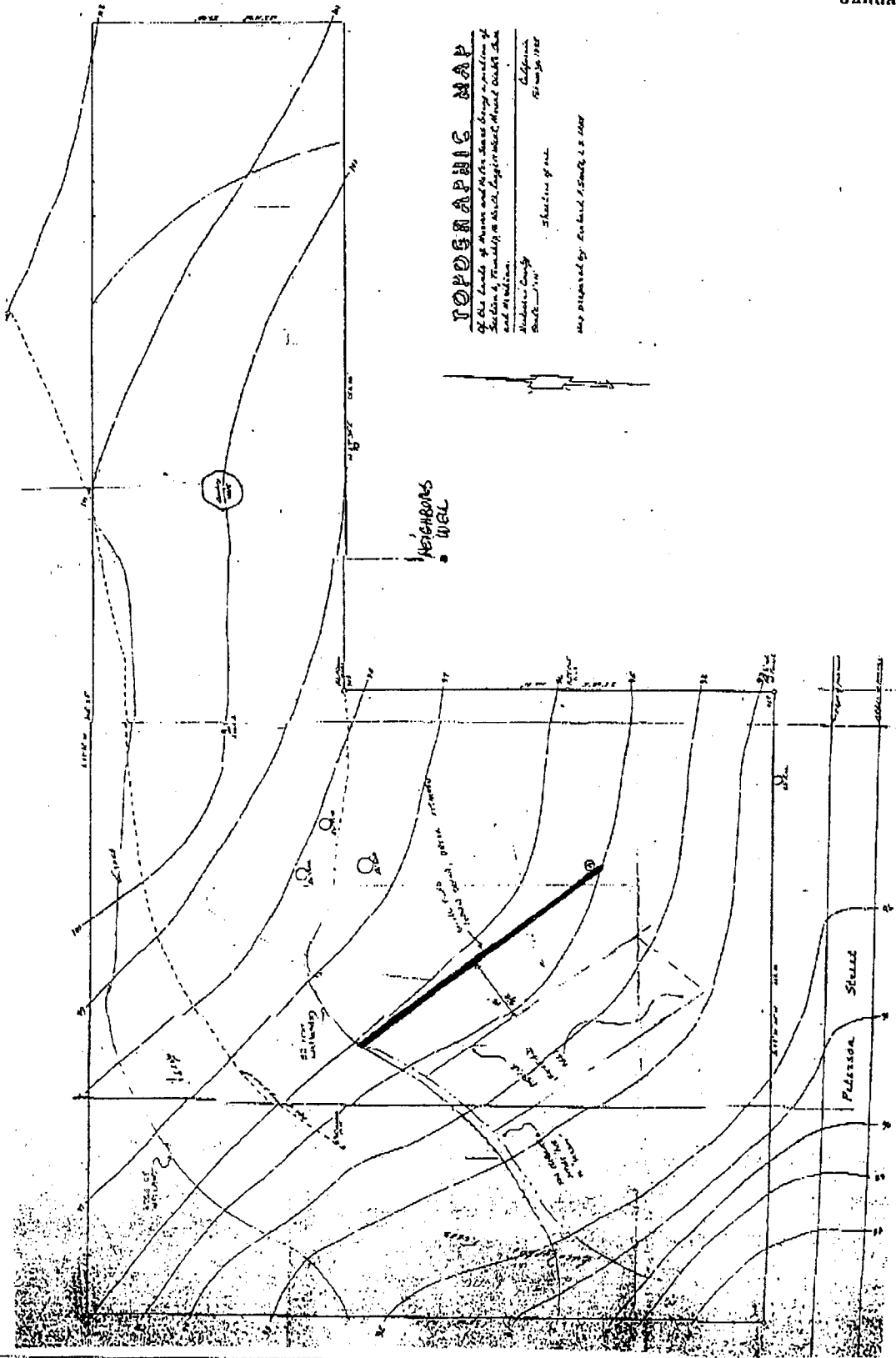


EXHIBIT B

SITE PLAN

8 of 8

**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



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FEB 22 2002

CALIFORNIA  
 COASTAL COMMISSION

APPEAL FROM COASTAL PERMIT  
 DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

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

Dr. Hillary Adams  
P.O. Box 01936  
Mendocino, CA 95460      (707) 877-3527  
   Zip                                      Area Code                      Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: Mendocino County, Dept. Planning + Building

2. Brief description of development being appealed: 1,980 sq. ft house + 1,010 sq. ft second building called workshop/garage in which applicants will live temporarily. Design of house and second building very similar.

3. Development's location (street address, assessor's parcel no., cross street, etc.): 45100 Peterson St. Little River APN 121-260-20

4. Description of decision being appealed:
- a. Approval; no special conditions: \_\_\_\_\_
  - b. Approval with special conditions:   X   \_\_\_\_\_
  - c. Denial: \_\_\_\_\_

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-1-MEN-02-014

DATE FILED: 2/22/02

DISTRICT: North Coast

H5: 4/88

EXHIBIT NO. 6
APPLICATION NO. A-1-MEN-02-014
SPIES
APPEAL (1 of 3)

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

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

6. Date of local government's decision: January 24, 2002

7. Local government's file number (if any): CDP 80-01  
and related CDP 85-98 (PAC 3-98) sustain decision in 50' wetland setback

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

Robert B and Ann E. Spies  
P.O. Box 824  
Livermore, CA 94530

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

(1) Mr. Bud Kamb  
P.O. Box 616  
Little River, CA. 95456

(2) Sierra Club Redwood Chapter Attn. M. Pennington  
P.O. Box 466  
Santa Rosa, CA. 95402

(3) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(4) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SECTION IV. Reasons Supporting This Appeal

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

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

Coastal Act: 30 231 (wetlands + streams); 3 0240  
Local Coastal Program 3.1 et seq. LUP 3.1-2 + 7 especially.  
Coastal Zoning Code: Sec. 20.496.020 et seq. (ESHA)  
20.496.025 (wetlands)

The 100' buffer min. requirement - was dropped to 50' without scientific reasons given either for COP 85-98 (curtain drain) or 80-01 (buildings). Applicant claims 85-98 created buffer for 80-01.

I disagree. Curtain drain is within 50' setback and appears to would be draining ESHA/wetland into stream bed on north side. Only one building should be permitted, not two. No Dept. Fish + Game statement.  
Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request. Further information including photographs will be submitted.

SECTION V. Certification

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

Hillary de M. Hame  
(Signature of Appellant(s) or Authorized Agent)

Date February 18, 2002

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

Section VI. Agent Authorization

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

\_\_\_\_\_  
Signature of Appellant(s)

Date \_\_\_\_\_



APPENDIX D. TECHNICAL CRITERIA FOR IDENTIFYING AND MAPPING WETLANDS AND OTHER WET ENVIRONMENTALLY SENSITIVE HABITAT AREAS

The purpose of this discussion is to provide guidance in the practical application of the definition of "wetland" contained in the Coastal Act. The Coastal Act definition of "wetland" is set forth in Section 30121 of the Act which states:

SEC. 30121

"Wetland" means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.

EXHIBIT NO.	7
APPLICATION NO.	A-1-MEN-02-014
APPENDIX 8 - CALIFORNIA COASTAL COMMISSION	
STATEWIDE INTERPRETIVE GUIDELINES (1 of 8)	

This is the definition upon which the Commission relies to identify "wetlands." The definition refers to lands ". . . which may be periodically or permanently covered with shallow water . . ." However, due to highly variable environmental conditions along the length of the California coast, wetlands may include a variety of different types of habitat areas. For this reason, some wetlands may not be readily identifiable by simple means. In such cases, the Commission will also rely on the presence of hydrophytes and/or the presence of hydric soils. The rationale for this in general is that wetlands are lands where saturation with water is the dominant factor determining the nature of soil development and the types of plant and animal communities living in the soil and on its surface. For this reason, the single feature that most wetlands share is soil or substrate that is at least periodically saturated with or covered by water, and this is the feature used to describe wetlands in the Coastal Act. The water creates severe physiological problems for all plants and animals except those that are adapted for life in water or in saturated soil, and therefore only plants adapted to these wet conditions (hydrophytes) could thrive in these wet (hydric) soils. Thus, the presence or absence of hydrophytes and hydric soils make excellent physical parameters upon which to judge the existence of wetland habitat areas for the purposes of the Coastal Act, but they are not the sole criteria. In some cases, proper identification of wetlands will require the skills of a qualified professional.

The United States Fish and Wildlife Service has officially adopted a wetland classification system\* which defines and classifies wetland habitats in these terms. Contained in the classification system are specific biological criteria for identifying wetlands and establishing their upland limits. Since the wetland definition used in the classification system is based upon a feature identical to that contained in the Coastal Act definitions, i.e., soil or substrate that is at least periodically saturated or covered by water, the Commission will use the

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\* "Classification of Wetlands and Deep-Water Habitats of the United States." By Lewis M. Cowardin, et al, United States Department of the Interior, Fish and Wildlife Service, December 1979.

classification system as a guide in wetland identification. Applying the same set of biological criteria consistently should help avoid confusion and assure certainty in the regulatory process. This appendix discusses the adaptation of this classification system to the Coastal Act definition of "wetland" and other terms used in the Act, and will form the basis of the Commission's review of proposals to dike, fill or dredge wetlands, estuaries or other wet habitat areas.

#### I. U.S. Fish and Wildlife Classification System: Upland/Wetland/Deep-water Habitat Distinction

The United States Fish and Wildlife Service classification is hierarchical, progressing from systems and subsystems, at the most general levels, to classes, subclasses, and dominance types. The term "system" refers here to a complex of wetland and deep-water habitats that share the influence of one or more dominant hydrologic, geomorphologic, chemical, or biological factors.

The Service provides general definitions of wetland and deep-water habitat and designates the boundary between wetland and deep-water habitat and the upland limit of a wetland. The following are the Services' definitions of wetland and deep-water habitats:

##### A. Wetlands

"Wetlands are lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this classification, wetlands must have one or more of the following three attributes: (1) at least periodically, the land supports predominantly hydrophytes; (2) the substrate is predominantly undrained hydric soil; and (3) the substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of each year.

Wetlands as defined here include lands that are identified under other categories in some land-use classifications. For example, wetlands and farmlands are not necessarily exclusive. Many areas that we define as wetlands are farmed during dry periods, but if they are not tilled or planted to crops, a practice that destroys the natural vegetation, they will support hydrophytes.\*

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\* For the purposes of identifying wetlands using the technical criteria contained in this guideline, one limited exception will be made. That is, drainage ditches as defined herein will not be considered wetlands under the Coastal Act. A drainage ditch shall be defined as a narrow (usually less than 5-feet wide), manmade nontidal ditch excavated from dry land.

Drained hydric soils that are now incapable of supporting hydrophytes because of a change in water regime are not considered wetlands by our definition. These drained hydric soils furnish a valuable record of historic wetlands, as well as an indication of areas that may be suitable for restoration.

The upland limit of wetland is designated as (1) the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover; (2) the boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or (3) in the case of wetlands without vegetation or soil, the boundary between land that is flooded or saturated at some time each year and land that is not."

Wetlands should be identified and mapped only after a site survey by a qualified botanist, ecologist, or a soil scientist (See section III. B. of the guideline for a list of required information)\*.

#### B. Deepwater Habitats

"Deepwater habitats are permanently flooded lands lying below the deepwater boundary of wetlands. Deepwater habitats include environments where surface water is permanent and often deep, so that water, rather than air, is the principal medium within which the dominant organisms live, whether or not they are attached to the substrate. As in wetlands, the dominant plants are hydrophytes; however, the substrates are considered nonsoil because the water is too deep to support emergent vegetation (U. S. Soil Conservation Service, Soil Survey Staff 1975)."

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\* Further details regarding the standards and criteria for mapping wetlands using the Service's classification system may be found in the following, "Mapping Conventions of the National Wetland Inventory," (undated), published by the U.S.F.W.S. The document may be obtained from the U.S.F.W.S., Regional Wetland Coordinator, Region 1, Portland, Oregon.

"The boundary between wetland and deep-water habitat in the Marine and Estuarine Systems (i.e., areas subject to tidal influence) coincides with the elevation of the extreme low-water of spring tide (ELWS); permanently flooded areas are considered deep-water habitats in these systems. The boundary between wetland and deep-water habitat in the Riverine, Lacustrine and Palustrine Systems lies at a depth of 2m (6.6 ft.) below low-water; however, if emergents, shrubs or trees grow beyond this depth at any time, their deep-water edge is the boundary."

## II. Wetland/Estuary/Open Coastal Water Distinction

For the purposes of mapping "wetlands" under the Coastal Act's definition of wetlands, and of mapping the other wet environmentally sensitive habitat areas referred to in the Act, including "estuaries," "streams," "riparian habitats," "lakes" and "open coastal water," certain adaptations of this classification system will be made. The following is a discussion of these adaptations.

"Wetland," as defined in Section 30121 of the Coastal Act, refers to land covered by "shallow water," and the examples given in this section include fresh, salt and brackish water marshes, mudflats and fans. A distinction between "wetland" and the other habitat areas in the Act, for example, "estuary," must be made because the Act's policies apply differently to these areas, and because the Act does not define some of these terms (such as "estuary"). A reasonable distinction can be made between "wetland" and "estuary" on the basis of an interpretation of the phrase "shallow water." Using the Service's classification system, "shallow water" would be water that is above the boundary of deep-water habitat, which would be the line of extreme low-water of spring tide\* for areas subject to tidal influence and 2 meters for non-tidal areas. Therefore, wetland begins at extreme low-water of spring tide and "estuary" or "open coastal water" is anything deeper. The Coastal Act definition of "wetlands" would include the wetland areas of Estuarine, Palustrine, and Lacustrine ecological systems defined by the Fish and Wildlife classification system.

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\* While the Service's classification system uses "extreme low-water of spring tide" as the datum to distinguish between "shallow-water" and "deep-water habitat," such datum is not readily available for the California coast. Therefore, the lowest historic tide recorded on the nearest available tidal bench mark established by the U. S. National Ocean Survey should be used as the datum.

Data for such bench marks are published separately for each station in loose-leaf form by the National Ocean Survey, Tideland Water Levels, Datum and Information Branch, (C23), Riverdale, MD 20840. These compilations include the description of all bench marks at each tide station (for ready identification on the ground), and their elevations above the basic hydrographic or chart datum for the area, which is mean lower low-water on the Pacific coast. The date and length of the tidal series on which the bench-mark elevations are based are also given.

For the purposes of the Coastal Act, an "estuary" is a coastal water body usually semi-enclosed by land, but which has open, partially obstructed, or intermittent exchange with the open ocean and in which ocean water is at least occasionally diluted by fresh water runoff from the land. The salinity may be periodically increased above that of the open ocean by evaporation.

"Open coastal water" or "coastal water" as used in the Act refers to the open ocean overlying the continental shelf and its associated coastline with extensive wave action. Salinities exceed 30 parts per thousand with little or no dilution except opposite mouths of estuaries.

### III. Wetland/Riparian Area Distinction

For the purpose of interpreting Coastal Act policies, another important distinction is between "wetland" and "riparian habitat." While the Service's classification system includes riparian areas as a kind of wetland, the intent of the Coastal Act was to distinguish these two areas. "Riparian habitat" in the Coastal Act refers to riparian vegetation and the animal species that require or utilize these plants. The geographic extent of a riparian habitat would be the extent of the riparian vegetation. As used in the Coastal Act, "riparian habitat" would include the "wetland" areas associated with Palustrine ecological systems as defined by the Fish and Wildlife Service classification system.

Unfortunately, a complete and universally acceptable definition of riparian vegetation has not yet been developed, so determining the geographic extent of such vegetation is rather difficult. The special case of determining consistent boundaries of riparian vegetation along watercourses throughout California is particularly difficult. In Southern California these boundaries are usually obvious; the riparian vegetation grows immediately adjacent to watercourses and only extends a short distance away from the watercourse. In Northern California, however, the boundaries are much less distinct; vegetation that occurs alongside a stream may also be found on hillsides and far away from a watercourse.

For the purposes of this guideline, riparian vegetation is defined as that association of plant species which grows adjacent to freshwater watercourses, including perennial and intermittent streams, lakes, and other freshwater bodies. Riparian plant species and wetland plant species either require or tolerate a higher level of soil moisture than dryer upland vegetation, and are therefore generally considered hydrophytic. However, riparian vegetation may be distinguished from wetland vegetation by the different kinds of plant species. At the end of this appendix, lists are provided of some wetland hydrophytes and riparian hydrophytes. These lists are partial, but give a general indication of the representative plant species in these habitat areas and should be sufficient to generally distinguish between the two types of plant communities.

The upland limit of a riparian habitat, as with the upland limit of vegetated wetlands, is determined by the extent of vegetative cover. The upland limit of riparian habitat is where riparian hydrophytes are no longer predominant.

As with wetlands, riparian habitats should be identified and mapped only after a site survey by a qualified botanist, freshwater ecologist, or soil scientist.\* (See pp. 6-9 of the guideline for a list of information which may be required of the applicant).

#### IV. Vernal Pools

Senate Bill No. 1699 (Wilson) was approved by the Governor on September 13, 1980 and the Bill added Section 30607.5 to the Public Resources Code to read:

30607.5. Within the City of San Diego, the commission shall not impose or adopt any requirements in conflict with the provisions of the plan for the protection of vernal pools approved and adopted by the City of San Diego on June 17, 1980, following consultation with state and federal agencies, and approved and adopted by the United States Army Corps of Engineers in coordination with the United States Fish and Wildlife Service.

The Commission shall adhere to Section 30607.5 of the Public Resources Code in all permit and planning matters involving vernal pools within the City of San Diego.

All vernal pools located within the city of San Diego in the coastal zone are depicted on a map attached as Exhibit 1 to a letter from Commission staff to Mr. James Gleason, City of San Diego (4/29/80). While "vernal pool" is a poorly defined regional term, all information available to the Commission suggests that all vernal pools in the coastal zone are located in the City of San Diego. It is important to point out, however, that vernal pools are distinct from vernal ponds and vernal lakes, which exist in other parts of the coastal zone (e.g. Oso Flaco Lakes in San Luis Obispo County). The Commission generally considers these habitat areas to be wetlands for the purposes of the Coastal Act, and therefore all applicable sections of the Coastal Act will be applied to these areas.

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\* Identification of riparian habitat areas in Northern California presents peculiar difficulties. While in Southern California riparian vegetation generally occurs in a narrow band along streams and rivers, along the major rivers in Northern California it may be found in broad floodplains, abandoned river channels and the bottoms adjacent to the channels. In forested areas, the overstory of riparian vegetation may remain similar to the adjacent forest but the understory may contain a variety of plant species adapted to moist or wet substrates. For example, salmonberry, bayberry, willow, twinberry and lady farn, may all be more common in the understory of riparian habitat areas than in other types of forest habitat areas.

## V. Representative Plant Species in Wetlands and Riparian Habitat Areas

This is a list of "representative" species that can be expected to be found in the various habitat areas indicated. Not all of them will be found in all areas of the State, and there are numerous others that could be included. However, this list should suffice to generally distinguish between these types of plant communities.

### A. Salt Marsh

Pickleweed (Salicornia virginica)  
Glasswort (S. subterminalis)  
Saltgrass (Distichlis spicata)  
Cordgrass (Spartina foliosa)  
Jaumea (Jaumea carnosa)  
Saltwort (Batis maritima)  
Alkali heath (Frankenia grandifolia)  
Salt cedar (Monanthocloe litoralis)  
Arrow grass (Triglochin maritimum)  
Sea-blite (Suaeda californica var pubescens)  
Marsh rosemary (Limonium californicum var mexicanum)  
Gum plant (Grindelia stricta)  
Salt Marsh Fleabane (Pluchea purpurescens)

### B. Freshwater Marsh

Cattails (Typha spp.)  
Bulrushes (Scirpus spp.)  
Sedges (Carex spp.)  
Rushes (Juncus spp.)  
Spikerush (Heleocharis palustris)  
Pondweeds (Potamogeton spp.)  
Smartweeds (Polygonum spp.)  
Water lilies (Nuphar spp.)  
Buttercup (Ranunculus aquatilis)  
Water-cress (Nasturtium officinale)  
Bur-reed (Sparganium eurycarpum)  
Water parsley (Vernanthe sarmentosa)  
Naiads (Najas spp.)

### C. Brackish Marsh

Alkali bulrush (Scirpus robustus)  
Rush (Juncus balticus)  
Brass buttons (Cotula coronopifolia)  
Fat-hen (Atriplex patula var hastata)  
Olney's bulrush (Scirpus olneyi)  
Common tule (Scirpus acutus)  
Common reed (Phragmites communis)

D. Riparian

Willows (Salix spp.)  
Cottonwoods (Populus spp.)  
Red alder (Alnus rubra)  
Box elder (Acer negundo)  
Sycamore (Platanus racemosa)  
Blackberry (Rubus vitifolia)  
So. Black walnut (Juglans californica) (So. Calif.)  
California Bay (Umbellularia californicum) (So. Calif.)  
Bracken fern (Pteris aquilinum) (Gen. Calif.)  
Current (Ribes spp.)  
Twinberry (Lonicera involucrata) (No. Calif.)  
Lady fern (Athyrium felix-femina)  
Salmonberry (No. Calif.)  
Bayberry (No. Calif.)

E. Vernal Pools

Downingia (Downingia sp.)  
Meadow-foxtail (Alopecurus howellii)  
Hair Grass (Deschampsia danthonioides)  
Quillwort (Isoetes sp.)  
Meadow-foam (Limnanthus sp.)  
Pogogyne (Pogogyne sp.)  
Flowering Quillwort (Lilaea scilloides)  
Cryptantha (Cryptantha sp.)  
Loosestrife (Lythrum hyssopifolium)  
Skunkweed (Navarretia sp.)  
Botton-celery (Eryngium sp.)  
Orcutt-grass (Orcuttia sp.)  
Water-starwort (Callitriche sp.)  
Waterwort (Elatine sp.)  
Woolly-heads (Psilocarpus sp.)  
Brodiaea (Brodiaea sp.)  
Tillaea (Crassula acuatia)