

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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49 th Day:	May 21, 2002
Staff:	Tiffany S. Tauber
Staff Report:	April 19, 2002
Hearing Date:	May 10, 2002
Commission Action:	

STAFF REPORT: APPEAL**SUBSTANTIAL ISSUE**

APPEAL NO.:	A-1-MEN-02-019
APPLICANT:	Torben Moller & Laura Jean Spurrier
LOCAL GOVERNMENT:	County of Mendocino
DECISION:	Approval with Conditions
PROJECT LOCATION:	44696 Crestwood Drive, on the east side of Highway One approximately ¼ mile east of its intersection with Crestwood Drive, Mendocino (APN 119-370-10)
PROJECT DESCRIPTION:	Construct a 1,680-square-foot single-family residence with an average maximum height of 28 feet above finished grade and installation of a driveway, Wisconsin mound septic system with a curtain drain and connection to the Big River Vista Mutual Water Company.
APPELLANT:	Sierra Club Redwood Chapter, attn: Dr. Hillary Adams
SUBSTANTIVE FILE DOCUMENTS:	(1) Mendocino County CDP #39-00; (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 its consistency with the certified LCP.

The development, as approved by the County, consists of a 1,680-square-foot single-family residence with an average maximum height of 28 feet above finished grade and installation of a driveway, Wisconsin mound septic system with a curtain drain, and connection to the Big River Vista Mutual Water Company.

The appellant contends that the approved project raises a substantial issue of conformance with the County's LCP policies pertaining to (1) establishment of an adequate buffer between the approved development and environmentally sensitive habitat areas on the site, (2) site drainage, and (3) identification of pygmy soils.

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 project site contains two types of environmentally sensitive habitat areas including a riparian vegetation corridor and populations of Bolander's Reed Grass, a California Native Plant Society Class 1B listed rare plant. The County's findings for approval of the project present 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 set forth by the LCP and in consultation with the California Department of Fish and Game, as required 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.

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 it is located within 100 feet of a stream.

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 No. 6) to the Commission in a timely manner on April 2, 2002 within 10 working days of receipt by the Commission on March 27, 2002 of the County's Notice of Final Action.

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-02-019 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-02-019 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' CONTENTIONS

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 a 1,680-square-foot single-family residence with an average maximum height of 28 feet above finished grade, installation of a driveway and a Wisconsin mound septic system with a curtain drain, and connection to the Big River Vista Mutual Water Company. The appellant's contentions are summarized below, and the full text of the appeal is included as Exhibit No. 6.

1. Environmentally Sensitive Habitat Areas

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, but not less than 50 feet, 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 the riparian area and a buffer less than 50 feet from a rare plant community would be provided and no evidence has been presented that (a) there is a scientific basis for reducing the riparian buffer, and (b) the Department of Fish and Game agrees that the narrower buffer is appropriate.

2. Site Drainage

The appellant contends that the project as approved by the County is inconsistent with LCP policies and standards regarding site drainage because a drainage plan was not required. The appellant contends that although a member of the public registered concerns at the local hearing about potential impacts to adjacent property from inadequate site drainage, the issue was not adequately addressed in the County's review and approval.

3. Pygmy Forest

The appellant contends that the project as approved by the County is inconsistent with LCP policies and standards regarding pygmy forest habitat because the County failed to identify what, according to the appellant, appear to be pygmy soils on the site.

B. LOCAL GOVERNMENT ACTION

On February 28, 2002 the Coastal Permit Administrator for Mendocino County approved Coastal Development Permit #39-00 for the subject development. The County's permit, as approved, attached two special conditions.

Special Condition No. 1 requires the applicant to surface the driveway and parking area with gravel or other similar pervious surfacing and that paving of the driveway or parking area with an impervious surface be prohibited to ensure the ongoing protection of the riparian plant community. The condition further requires that should paving of the driveway or parking area become necessary in the future, the applicant must submit documentation and justification by a qualified botanist to ensure the ongoing integrity of the resource will not be compromised and such documentation is subject to the review and approval of the Coastal Permit Administrator or require a modification to the Coastal Development Permit. Special Condition No. 1 also requires that culverts be provided as necessary to maintain existing drainage patterns.

Special Condition No. 2 requires that soil disturbance, grading, or soil storage be prohibited in the area of the Bolander's Reed Grass population and that building materials not be allowed to accumulate in the area of the Bolander's Reed Grass population. The condition further requires that with the exception of the area to be cleared for the septic system, significant modification of existing vegetation as in landscaping and planting of ornamental vegetation not be permitted in the area of Bolander's Reed Grass population. Furthermore, Special Condition No. 2 requires the applicant, prior to project commencement, to install temporary fencing at the edge of the 50-foot buffer for the riparian area and around the Bolander's Reed Grass population in the vicinity of the footprint of the residence. The fencing is required to remain in place until the building permit is finalized and the site is absent of any project-related debris or equipment.

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 March 27, 2002 (Exhibit No. 5).

C. PROJECT AND SITE DESCRIPTION

The subject property is a vacant, 1.27-acre parcel located in a rural residential area located north of Big River near the southeast boundary of the town of Mendocino (APN 119-370-10). The site is located on the east side of Highway One approximately ¼ mile east of its intersection with Crestwood Drive, which leads into the Big River Vista subdivision.

The development, as approved by the County, consists of a 1,680-square-foot single-family residence with an average maximum height of 28 feet above finished grade and installation of a driveway, Wisconsin mound septic system with a curtain drain, and connection to the Big River Vista Mutual Water Company.

The project was originally approved by the County under CDP #06-97; however, the permit expired on March 11, 2000 prior to the commencement of any construction activities. On February 28, 2002, the Coastal Permit Administrator approved Coastal Development Permit #39-00 for the same project. Currently, the parcel is zoned Rural Residential and the proposed residential development is consistent with the Rural Residential zoning district. The Rural Residential district requires a minimum 20-foot setback for front and rear yards and 6 feet for side yards. The proposed setbacks of the residence are 30 feet from the eastern property boundary, 85 feet from the southern boundary, 45 feet from the western boundary and 130 feet from the northwestern boundary.

The subject parcel is somewhat of an unusual shape; generally triangular, with the narrow, top point of the triangle to the north. The residence as approved by the County is sited at the southeastern base of the triangular portion of the property. The Wisconsin mound septic system and associated curtain drain are sited on a square-shaped easement obtained from an adjacent property owner to the southeast of the triangular parcel.

A watercourse flows along the northwestern property boundary and is flanked by a corridor of riparian vegetation that extends easterly toward the center of the property. The project site also provides habitat for Bolander's Reed Grass, a listed California Native Plant Society (CNPS) Class 1B rare plant species.

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."

1. Appellant's Contentions That Are Valid Grounds for Appeal

Two of the three contentions raised in the appeal present potentially valid grounds for appeal in that they allege the project's inconsistency with policies of the certified LCP. The contentions allege 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. The contentions further allege that the approval of the project by the County raises a substantial issue related to site drainage.

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 allegations below, a substantial issue exists with regard to the approved project's conformance with the certified Mendocino County LCP.

Allegation Raising Substantial Issue

a. Protection of Environmentally Sensitive Habitat Areas

The appellant contends that the project as approved is not consistent with certain policies of the certified Land Use Plan and certain sections of the Coastal Zoning Code. The appellant states that the requirement for a 100-foot-wide minimum buffer was reduced to 50 feet from the riparian vegetation corridor without scientific justification, and without the required consultation and agreement from the California Department of Fish and Game. Additionally, the buffer from the rare plant community, Bolander's Reed Grass, was reduced to less than 50 feet where the LCP requires that ESHA buffers not be less than 50 feet in width.

LCP Policies:

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.

Policy 3.1-10 states in applicable part, "Areas where riparian vegetation exists, such as riparian corridors, are environmentally sensitive habitat areas and development within such areas shall be limited to only those uses which are

dependent on the riparian resources. [emphasis added] All such areas shall be protected against any significant disruption of habitat values by requiring mitigation for those uses which are permitted. No structure or development, including dredging, filling, vegetation removal and grading, which could degrade the riparian area or diminish its value as a natural resource shall be permitted in the Riparian corridor except for:

- Channelizations, dams, or other substantial alterations of rivers and streams as permitted in Policy 3.1-9;
- pipelines, utility lines and road crossings, when no less environmentally damaging alternative route is feasible;
- existing agricultural operations;
- removal of trees for disease control, public safety purposes, or for firewood for the personal use of the property owner at his or her residence. Such activities shall be subject to restrictions to protect the habitat values."

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.*

...

(4) Permitted Development.

Development permitted within the buffer area shall comply at a minimum 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, 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.*

- (d) *Development 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.*
- (e) *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.*
- (f) *Development shall minimize the following: impervious surfaces, removal of vegetation, amount of bare soil, noise, dust, artificial light, nutrient runoff, air pollution, and human intrusion into the wetland and minimize alteration of natural landforms.*
- (g) *Where riparian vegetation is lost due to development, such vegetation shall be replaced at a minimum ratio of one to one (1:1) to restore the protective values of the buffer area.*
- (h) *Aboveground structures shall allow peak surface water flows from a one hundred (100) year flood to pass with no significant impediment.*
- (i) *Hydraulic capacity, subsurface flow patterns, biological diversity, and/or biological or hydrological processes, either terrestrial or aquatic, shall be protected.*
- (j) *Priority for drainage conveyance from a development site shall be through the natural stream environment zones, if any exist, in the development area. In the drainage system design report or development plan, the capacity of natural stream environment zones to convey runoff from the completed development shall be evaluated and integrated with the drainage system wherever possible. No structure shall interrupt the flow of groundwater within a buffer strip. Foundations shall be situated with the long axis of interrupted impermeable vertical surfaces oriented parallel to the groundwater flow direction. Piers may be allowed on a case by case basis.*
- (k) *If findings are made that the effects of developing an ESHA buffer area may result in significant adverse impacts to the ESHA, mitigation measures will be required as a condition of project approval. Noise barriers, buffer areas in permanent open space, land dedication for erosion control, and wetland restoration, including off site drainage improvements, may be required as mitigation measures for developments*

adjacent to environmentally sensitive habitats. (Ord. No. 3785 (part), adopted 1991)

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:

The applicants' botanist, Gordon McBride, Ph.D., conducted a botanical survey of the subject parcel and submitted an initial report dated July 5, 2000 and submitted several subsequent reports to the County during its review of the project. The initial report identified the presence of Bolander's Reed Grass, a listed California Native Plant Society Class 1B rare plant species. Additionally, a riparian plant community was identified along the stream that flows along the northwestern parcel boundary.

The initial buffer width recommended by the applicants' botanist to protect the riparian plant community and the Bolander's Reed Grass was 50 feet. However, with a 50-foot-wide buffer from both the rare plant community and the riparian vegetation corridor, the resulting building envelope was determined to be inadequate to accommodate the proposed development. The proposed development of the single-family residence, located in the lower southeast corner of the property, is constrained by the need to maintain a buffer for the riparian corridor, a buffer for the rare plant community, front and side-yard setbacks, and septic system setbacks including a 200-foot setback from the Community Water Service. As a result, there are very limited places to construct the residence and maintain all necessary buffers and setbacks. County staff had further correspondence with the applicants' botanist and the width of the buffer for the Bolander's Reed Grass was ultimately reduced to 10 feet based on the botanists' determination that a lesser buffer width would be sufficient to protect the rare plant community from significant disruption.

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 disruption 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 riparian vegetation corridor and rare plant habitat on the site and required septic system setbacks, 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 environmentally sensitive habitat areas. 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 based on the standards of Coastal Zoning Ordinance Section 20.496.020(A). Several letters of correspondence between the applicants' botanist, and

the County, as reflected in the County staff report, indicate that the buffer reduction for the rare plant community was addressed, but are largely silent as to the basis for the buffer reduction for the riparian corridor.

In a letter from Gordon McBride dated May 4, 2001 he states,

"I do not believe the installation of a driveway within the recommended 50 foot buffer associated with the riparian plant community on the northern portion of the Moller/Spurrier parcel will jeopardize the ecological status of the riparian community. I recommend that such a driveway be rocked rather than paved. Paved surfaces may have a tendency to concentrate more runoff than a more porous surface and cause erosion which may degrade the riparian habitat. A rocked driveway would allow rainfall to be absorbed in a manner very similar to the natural soil on the site."

The driveway and parking area were originally proposed to be located within the 50-foot riparian buffer area and the applicants' botanist makes recommendations regarding locating the driveway within this buffer area as stated above. However, none of the various biological studies performed for the project by Dr. McBride, as discussed in the County staff report, provide evidence to demonstrate that a 100-foot-wide buffer is not necessary to protect the resources of the habitat area from significant disruption by the proposed development. The project was later revised to relocate the driveway and parking area out of the riparian buffer, but the width of the buffer as approved by the County remained at 50-feet.

With regard to the buffer from the rare plant community, Dr. McBride, in his July 23, 2001 letter does discuss why he believes the reduced buffer would be adequate to protect the plant community from significant disruption. He states,

"Given that Bolander's Reed Grass is a demonstrably colonizing grass that will invade, colonize and prosper in disturbed sites in Closed Cone Coniferous forest, I submit that placing a building envelope closer than 50 feet to the Bolander's Reed Grass population will not jeopardize its survival on the site. As long as care is taken to avoid disturbing the existing clumps of Bolander's Reed Grass, I believe a building envelope could be permitted as close a {sic} ten feet to the grass clumps."

This recommendation was based on the Dr. McBride's belief that the clearing of the adjacent property for a septic system would create approximately half an acre of cleared land that at present has scattered Bolander's Reed Grass growing on it, but that it is likely the grass would establish a much larger population on the septic field within two years of its installation. Furthermore, he suggests that occasional removal of the overstory and midlevel vegetation would favor the growth and continuance of the rare grass. In his final comments in a letter dated January 3, 2002, Dr. McBride indicates that the location of the house would be more than the 10-foot minimum distance recommended and

further recommended measures to minimize disturbance of the plants during the construction phase of the project. These construction phase recommendations were incorporated as Special Condition No. 2 of the County's approval.

There is no evidence presented in any of the correspondence from the applicants' botanist as discussed in the County staff report that substantiates that only a 50-foot buffer from the riparian area 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. Additionally, the buffer from the rare plant community was reduced to less than 50 feet where Coastal Zoning Ordinance Section 20.496.020(A)(1) requires that the buffer area shall not be less than 50 feet in width.

Furthermore, as noted previously, LUP Policy 3.1-7 and Zoning Code Section 20.496.020 state 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 100 feet is not necessary to protect the habitat resources.

The County staff report indicates that the project was referred to the Department of Fish and Game and copies of all botanical surveys and correspondence were provided to them, but that the County received no response. Thus, there is no evidence in the County staff report or findings that the California Department of Fish and Game provided consultation and agreed that a reduction of the riparian and/or rare plant buffer less than the minimum standard of 100 feet is appropriate to protect the resources of the habitat areas from significant disruption.

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 other projects recently appealed to the Commission, A-1-MEN-02-012 (Brorsen and Egelston) and A-1-MEN-02-014 (Spies), were also approved by the County with a 50-foot-wide 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 to less than 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.

Allegation Raising NO Substantial Issue

As discussed below, the Commission finds that with respect to the allegations regarding: (1) impacts from site drainage from the subject property onto an adjacent property and (2) impacts to potential pygmy soil at the project site raise no substantial issue of consistency with the certified LCP or the access provisions of the Coastal Act.

a. Site Drainage

The appellant contends that the project as approved by the County is inconsistent with LCP policies and standards regarding site drainage because a drainage plan was not required. The appellant contends that although a member of the public registered concerns at the local hearing about potential impacts to adjacent property from inadequate site drainage, the issue was not adequately addressed in the County's review and approval.

LCP Policies:

Section 20.492.025 of the Coastal Zoning Ordinance sets forth runoff standards and states:

- (A) *Sediment basins (e.g., debris basins, desilting basins, or silt traps) shall be installed in conjunction with initial grading operations and maintained through the development/construction process to remove sediment from runoff wastes that may drain from land undergoing development to environmentally sensitive areas.*
- (B) *To prevent sedimentation of off-site areas, vegetation shall be maintained to the maximum extent possible on the development site. Where necessarily removed during construction, native vegetation shall be replanted to help control sedimentation.*
- (C) *Temporary mechanical means of controlling sedimentation, such as hay baling or temporary berms around the site, may be used as part of an overall grading plan, subject to the approval of the Coastal Permit Administrator.*
- (D) *Design of sedimentation control devices shall be coordinated with runoff control structure to provide the most protection.*
- (E) *Provisions shall be made to infiltrate and/or safely conduct surface water to storm drains or suitable watercourses and to prevent surface runoff from damaging faces of cut and fill slopes. (Emphasis added)*
- (F) *Adequate maintenance of common and public retention basins or ponds shall be assured through the use of performance bonds or other financial mechanisms.*

- (G) *Subsurface drainage devices shall be provided in areas having a high water table and to intercept seepage that would adversely affect slope stability, building foundations, or create undesirable wetness.*
- (H) *A combination of storage and controlled release of storm water runoff shall be required for all development and construction within wetlands.*
- (I) *The release rate of storm water from all developments within wetlands shall not exceed the rate of storm water runoff from the area in its natural or undeveloped state for all intensities and durations of rainfall. The carrying capacity of the channel directly downstream must be considered in determining the amount of release.*

Discussion:

The appellant raises a concern that surface runoff from the development might drain onto the neighbor's property. The appellant states that a neighbor of the subject property attended the local hearing and was "concerned about drainage and the impact on her property." As referenced above, Coastal Zoning Ordinance Section 20.492.025 of the Coastal Zoning Ordinance sets forth a variety of runoff standards that address several potential impacts of runoff other than the specific concern stated by the appellant about increased drainage flow on to a neighbor's property, including minimizing sedimentation impacts from grading, intercepting seepage that would adversely affect slope stability and building foundations, and avoiding over-loading the water carrying capacity of streams and channels to avoid downstream flooding. However, Section 20.492.025(E) requires that provisions be made to infiltrate and/or safely conduct surface water to storm drains or suitable watercourses. In its action on the approved project, the County revised Special Condition No. 1 requiring the driveway and parking area to be constructed of pervious materials, to include an additional requirement that, "*Culverts shall be provided as necessary to maintain existing drainage patterns.*" Therefore, Special Condition No. 1 as approved by the County requires installation of culverts to maintain existing drainage patterns and to conduct surface water to suitable watercourses or storm drains consistent with the requirements of Section 20.492.025(E).

Therefore, the approved project does not raise a substantial issue of conformance with the surface runoff provisions of the LCP. The Commission also notes that it need not do an exhaustive analysis of why this contention does not raise a substantial issue because whether or not this contention raises a substantial issue, the result would not affect the Commission's determination that the ground for appeal regarding environmentally sensitive habitat areas and required ESHA buffers raises a substantial issue of conformance of the project as approved with the certified LCP.

b. Pygmy Forest

The appellant contends that the soil at the subject site is 'light-colored' with water streaming over the surface during dry weather conditions and is largely void of grass. Thus, the appellant believes that the site contains pygmy forest habitat that the County failed to identify as an environmentally sensitive habitat area during its review and approval of the project, and thus, the approved project is inconsistent with the pygmy forest habitat policies contained in the County's LUP. Although, as discussed below, the LUP Policies regarding the protection of pygmy forest habitat are not part of the County's certified LCP, presumably the appellant questions how the local approval could include an area containing pygmy forest habitat since such areas are considered areas of deferred certification wherein the Commission currently retains permit authority.

In 1993, the Second Appellate District ruled on Sierra Club v. California Coastal Commission (12 Cal.App.4th 602). The appellate court affirmed the lower court's issuance of a peremptory writ commanding the Commission to set aside its approval of the Land Use Plan (LUP) for failure to confer ESHA status on pygmy forest areas. The appellate court found no substantial evidence supporting the Commission's approval of the LUP without according ESHA status to the pygmy forest.

To comply with the court's order, the approved LUP policies dealing with pygmy forest habitat were set aside. In February of 1994, the Commission "segmented" the County's LCP and created a separate portion consisting of the pygmy forest areas of the County's coastal zone, which constitute an "Area of Deferred Certification" (ADC), wherein the Commission retains permit authority until such time as the County completes a certified LCP for this segment.

Therefore, if it were determined that both pygmy soils and pygmy vegetation were present at the subject property, as required to constitute pygmy forest, any portions of the development proposed within the pygmy forest would be considered an "Area of Deferred Certification" and the site would fall within the Commission's permit jurisdiction. A botanical survey was conducted at the site and did not identify the presence of pygmy vegetation. Furthermore, Commission staff has reviewed the pygmy soil and vegetation maps prepared by the U.S. Soil Conservation Service (now the Natural Resource Conservation Service) and confirmed that the maps do not designate the subject property as having pygmy soils (Exhibit No. 7).

Although the light-colored soil is often characteristic of true pygmy soils, it is not necessarily indicative of true pygmy soils, as many 'pygmy-type soils' are of a similar appearance, but do not support the growth of pygmy vegetation in a manner that true pygmy soils do. Additionally, aside from the color of the soil at the subject site, the appellant has not provided any additional evidence to suggest that the soils at the subject site are true pygmy soils, or that pygmy vegetation is present at the site.

Therefore, the appellant's contention that the site contains pygmy soils and that the approved development would be inconsistent with the certified LCP because it contains pygmy forest habitat does not raise a substantial issue of conformity with the certified LCP because as discussed above, a biological survey of the site did not identify the presence of pygmy habitat.

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.

Buffers for Environmentally Sensitive Habitat Areas

The applicants propose that a 50-foot buffer as measured from the riparian vegetation corridor and the rare plant community 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).

The biological information provided by the applicants' botanist, and relied upon by the County in approving the project, does not 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 3.1-7. 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 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 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. Site Plan Showing Extent of Environmentally Sensitive Habitat Areas
5. Notice of Final Action & County Staff Report
6. Appeal
7. Soil Conservation Service Pygmy Vegetation and Soils Map

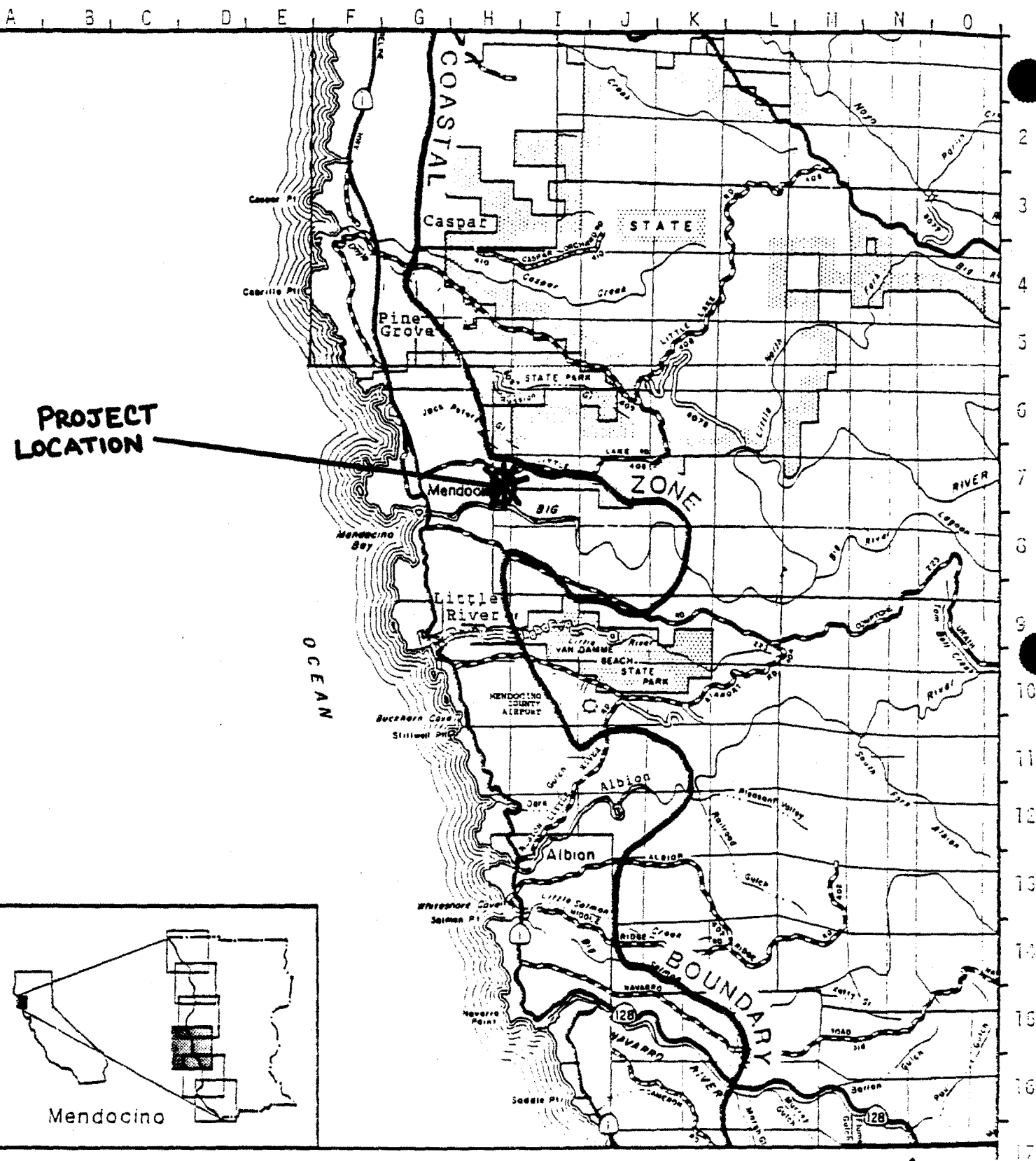
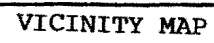


EXHIBIT NO. 1
APPLICATION NO. A-1-MEN-02-019
MOLLER/SPURRIER
REGIONAL LOCATION

CPA-12



NORTH
ALE

- Note:
1. Vegetation removal will occur for driveway and parking areas
 2. For exterior lighting see detail

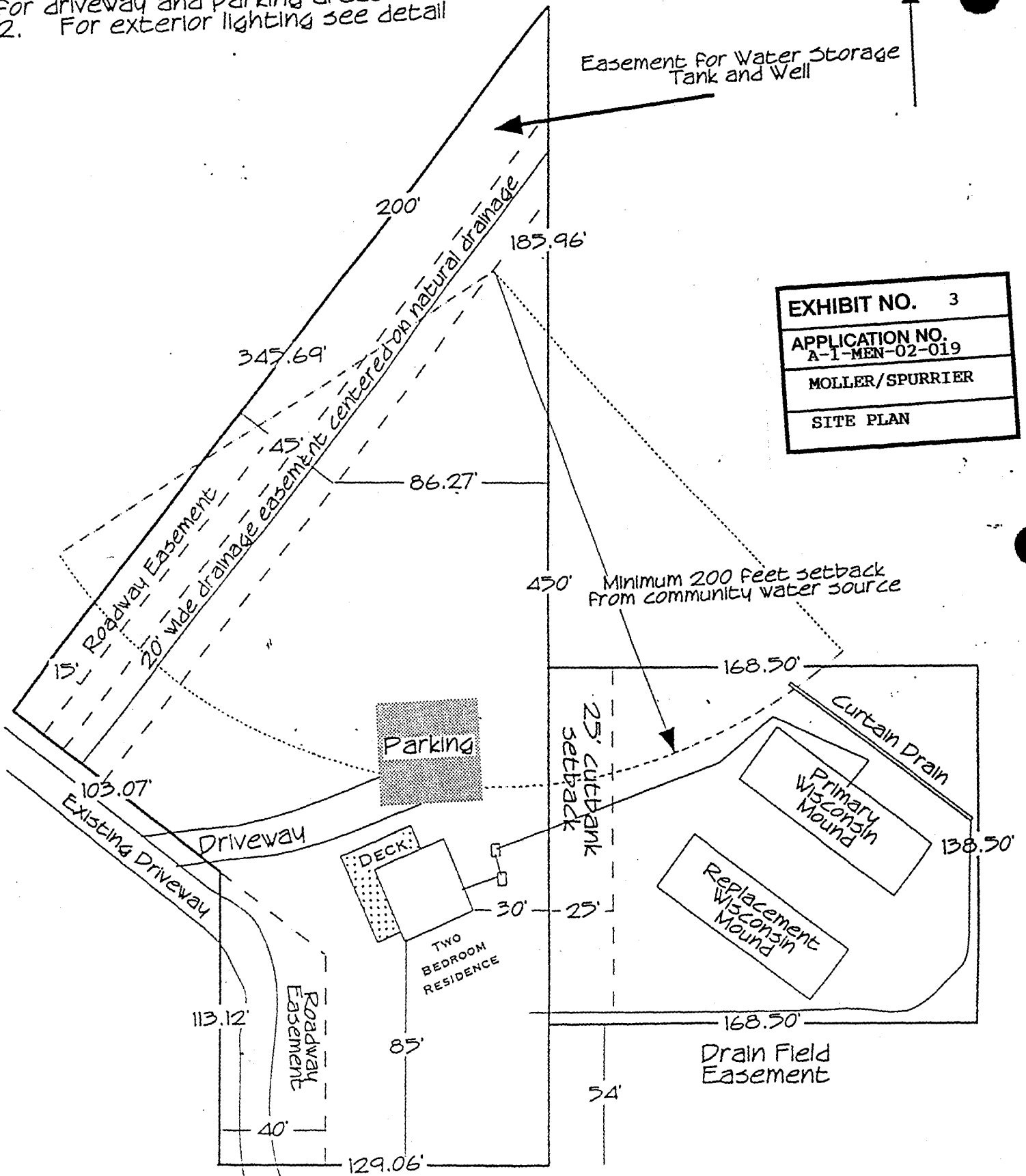
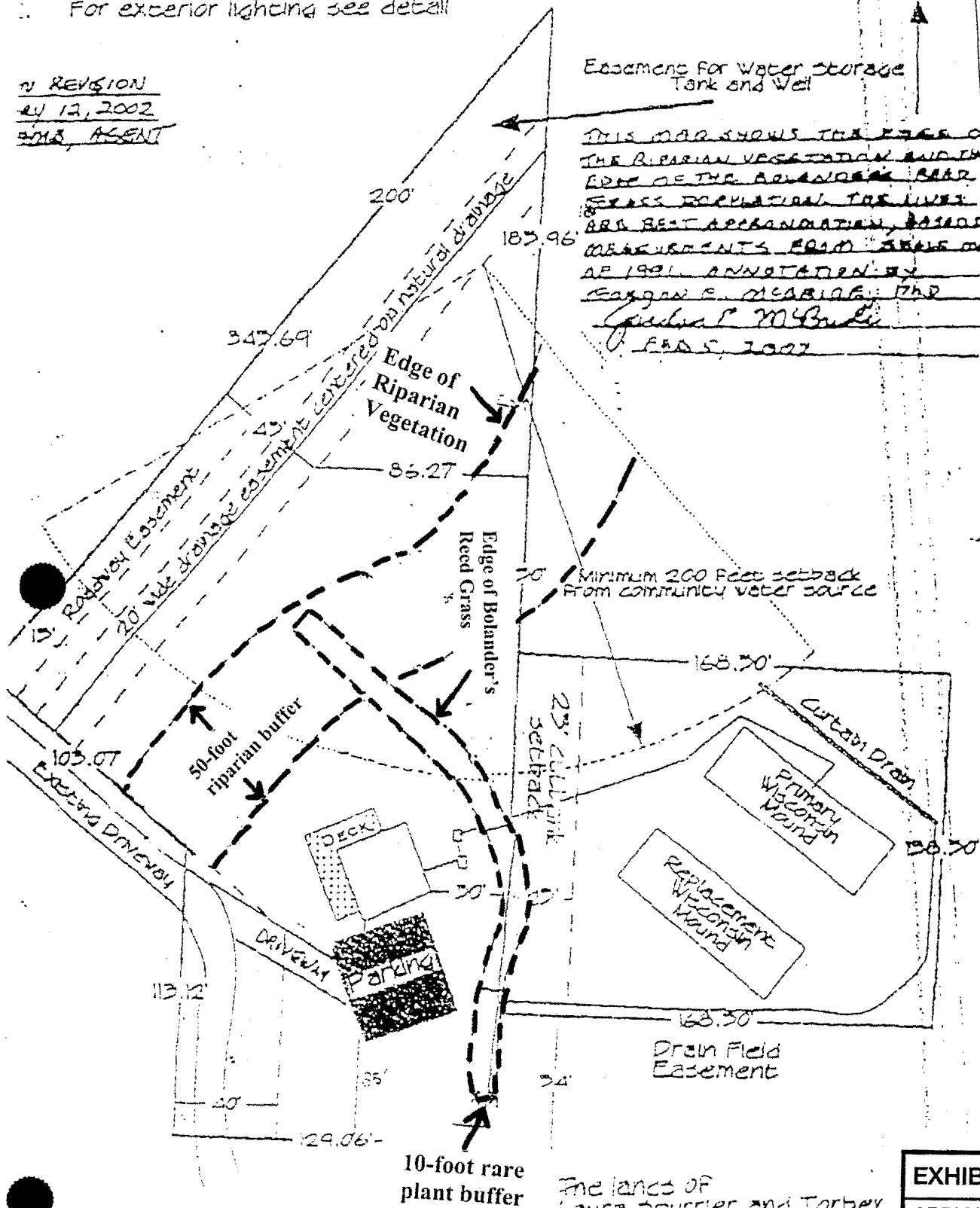


EXHIBIT NO.	3
APPLICATION NO.	A-1-MEN-02-019
MOLLER/SPURRIER	
SITE PLAN	

The lands of
 Laura Spurrier and Torben Moller
 Drawn August 17, 1996
 1" = 50'

Vegetation removal will occur
on driveway and parking areas
For exterior lighting see detail

NO REVISION
BY 12, 2002
FOR AGENT



The lands of
Laura Spurrier and Torber
Drawn August 17, 1907

EXHIBIT NO.	4
APPLICATION NO.	A-1-MEN-02-019
MOLLER/SPURRIER	
ESHA BUFFERS	



RAYMOND HALL
DIRECTOR

COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES

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

TELEPHONE
(707) 964-5379

RECEIVED

MAR 27 2002

CALIFORNIA
COASTAL COMMISSION

March 21, 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 #39-00
OWNER: Torben Moller/Laura Jean Spurrier
AGENT: Bud Kamb
REQUEST: Construct a 1,680 square foot single-family residence with an average maximum height of 28' from finished grade. Install a driveway, Wisconsin mound septic system with a curtain drain and connection to the Big River Vista Mutual Water Company.
LOCATION: E side of Highway One approximately 1/4 mile E of its intersection with Crestwood Drive which leads into the Big River Vista Subdivision at 44696 Crestwood Drive (APN 119-370-10).

PROJECT COORDINATOR: Robert Dostalek

HEARING DATE: February 28, 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.

EXHIBIT NO.	5
APPLICATION NO.	A-1-MEN-02-019
MOLLER/SPURRIER	
NOTICE OF FINAL ACTION (1 of 13)	

COASTAL PERMIT ADMINISTRATOR ACTION SHEET

CASE#: CDP #39-00

HEARING DATE: February 28, 2002

OWNER: Moller/Spurrier

ENVIRONMENTAL CONSIDERATIONS:

☒ Categorically Exempt

☐ Negative Declaration

☐ EIR

FINDINGS:

☒ Per staff report

☐ Modifications and/or additions

ACTION:

☒ Approved

☐ Denied

☐ Continued _____

CONDITIONS:

☐ Per staff report

☒ Modifications and/or additions

Add a new second sentence to Special Condition #1: "Culverts shall be provided as necessary to maintain existing drainage patterns."

David Tamm for Frank L. Lynch
Signed: Coastal Permit Administrator

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STAFF REPORT FOR COASTAL DEVELOPMENT
STANDARD PERMIT

CDP# 39-00
February 28, 2002
CPA-1

OWNER:

Torben Moller
Laura Jean Spurrier
1281 Queens Road
Berkeley, CA 94708

AGENT:

RECEIVED
FEB 22 2002
CALIFORNIA
COASTAL COMMISSION

Bud Kamb
PO Box 616
Little River, CA 95456

REQUEST:

Construct a 1,680 square foot single family residence with an average maximum height of 28 feet measured from finished grade. The project also includes the installation of a driveway, a Wisconsin mound septic system with curtain drain and connection to the Big River Vista Mutual Water Company.

LOCATION:

On the east side of Highway One, approximately ¼ mile east of its intersection with Crestwood Drive (which leads into the Big River Vista Subdivision) at 44696 Crestwood Drive (APN: 119-370-10).

APPEALABLE AREA:

Yes (ESHA)

PERMIT TYPE:

Standard

TOTAL ACREAGE:

±1.27 acres

ZONING:

MRR: L-2

GENERAL PLAN:

RR2- Rural Residential

EXISTING USES:

Vacant

SUPERVISORIAL DISTRICT:

5

ENVIRONMENTAL DETERMINATION:

Categorically Exempt. Class 3(a)

OTHER RELATED APPLICATIONS:

CDP # 06-97 (expired), 7802-F (septic), LCP 96-02 (for a single family residence).

PROJECT DESCRIPTION AND HISTORY: *The project was originally approved under CDP #06-97, however, the permit expired on March 11, 2000 prior to the commencement of any construction activities with reliance on said permit.*

The applicant proposes to construct a 1,680 square foot, two story, two bedroom, single family residence with driveway. The maximum average height of the structure would be 28 feet above finished grade. A Wisconsin mound septic system and curtain drain would be developed on an easement obtained from an

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STAFF REPORT FOR COASTAL DEVELOPMENT
STANDARD PERMIT

CDP# 39-00
February 28, 2002
CPA-2

adjacent property owner. Water service will be provided by Big River Vista Mutual Water Company, a community water system. The project requires a Standard Coastal Development Permit because the proposed development is located within 100 feet of an environmentally sensitive habitat area (ESHA).

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.

Land Use

- ☒ Single family residences are compatible with the Mendocino Rural Residential (MRR) Zoning District and are designated as a principal permitted use.
- ☒ The MRR zoning district requires a minimum 20-foot setback for front and rear yards and 6 feet for side yards. The proposed setbacks of the residence are 30 feet from the eastern property boundary, 85 feet from the southern boundary, 45 feet from the western boundary and 130 feet from the northwestern boundary. The proposed development complies with the maximum building height (28 feet) and setback requirements of the zoning district.

Public Access

- ☒ The project site is located east of Highway 1 and public access to coastal resources is not an issue.

Hazards

- ☒ The site is located in a State Responsibility Area and potential hazards associated with fire protection on the subject property are addressed by CDF. A preliminary fire clearance form (#45-97) has been submitted by the applicant.
- ☒ 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 not located within a designated "highly scenic area."
- ☒ Pursuant to Section 20.760.035, the project is not subject to Mendocino Historical Review Board approval as the proposed development would not be visible by a person standing on any point in Historical Zone A, including the banks and beach of Big River.

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Natural Resources

Section 20.692.025 sets forth additional requirements of Title 20 of the Mendocino County Code that apply to development proposals within the jurisdictional area of Division III of the Zoning Code. This section specifically includes provisions pertaining to the identification and protection of environmentally sensitive habitat areas (ESHA's).

The following paragraphs provide a summation of correspondence between staff and the botanist contracted by the applicant (see file for complete letters and surveys pertaining to the natural resource portion of this report).

Gordon McBride, Ph.D., conducted a botanical survey of the parcel and a report was submitted dated July 5, 2000. The report identified the existence of Bolander's Reed Grass, a listed California Native Plant Society Class 1B rare plant species. Additionally, a riparian plant community was identified along the stream that flows along the northwestern parcel boundary. The initial buffer width recommended to protect the riparian plant community and the Bolander's Reed Grass was 50 feet.

With a 50-foot buffer from both the riparian plant community and the Bolander's Reed Grass population, the resulting building envelope did not appear to be adequate to accommodate the proposed development, which is a relatively modest size structure. Staff corresponded with the botanist to determine if a lesser buffer width would be sufficient to protect the resource from significant degradation. A letter from staff to the applicant's agent dated April 25, 2001 addressed the apparent constraints on the parcel and further stated that the botanical report did not adequately support the findings required for staff to recommend approval of the project, as proposed. The letter also requested more specific information relating to the Bolander's Reed Grass population. A response letter from the botanist dated May 4, 2001 provided insight as to the approximate size of the population including mitigation measures. A portion of this response letter states:

"I have not done an exact count, but I believe there are between 30 to 40 Bolander's Reed Grass in the Moller/Spurrier site. Bolander's Reed Grass has only been listed as a California Native Plant Society (CNPS) List 1B since June 2000, however, I have been aware of the grass for more than a decade and have identified it a number of times in many botanical surveys. In Coastal Mendocino County it is an occasional plant in Closed Cone and North Coast Coniferous forests. When these habitats are disturbed, as in logging, road construction or building envelope clearing, Bolander's Reed Grass has prospered. It is what an ecologist would call a colonizing or successional plant species. On the Moller/Spurrier site, for example, it is much more abundant along the eastern portion of the historically cleared building envelope. On other sites I have done botanical surveys where I have not found Bolander's Reed Grass present under a dense overstory of Bishop Pine and associated midlevel vegetation. However, subsequent visits to the site after it was cleared have shown Bolander's Reed Grass to be abundant in the cleared building envelope."

The letter dated May 4, 2002 also included recommendations to protect the riparian habitat on the northern portion of the parcel. This portion of the letter states:

"I do not believe the installation of a driveway within the recommended 50 foot buffer associated with the riparian plant community on the northern portion of the Moller/Spurrier parcel will

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jeopardize the ecological status of the riparian community. I recommend that such a driveway be rocked rather than paved. Paved surfaces may have a tendency to concentrate more runoff than a more porous surface and cause erosion which may degrade the riparian habitat. A rocked driveway would allow rainfall to be absorbed in a manner very similar to the natural soil on the site.

A portion of the driveway that serves the parcel is existing and would only require moderate additional surfacing. Special Condition #1 is recommended to ensure the driveway is surfaced in accordance with Gordon McBride's recommendation.

Staff corresponded further with Gordon McBride with a letter dated May 11, 2001. The basis of the letter was that the information provided in the May 4, 2001 response did not specifically address staff's concerns or requests contained in the letter dated April 25, 2001. A response letter from Gordon McBride dated July 5, 2001 summarized his observations of Bolander's Reed Grass populations over the course of 10+ years.

At this point in the process, the issue of the Bolander's Reed Grass had not been fully addressed in accordance with the applicable sections of the Coastal Zoning Code. Staff met on site with the botanist to assess the building areas and discuss the required supplemental ESHA findings necessary to recommend approval of the project. Staff faxed the applicable code sections to Gordon McBride for his review and comment.

Sections 20.496.015(A)(2) & (3) of the Coastal Zoning code states:

"The development is proposed to be located within an ESHA, according to an on-site investigation, or documented resource information."

"A project has the potential to impact an ESHA if the development is proposed to be located within one hundred (100) feet of an environmentally sensitive habitat and/or has the potential to negatively impact the long-term maintenance of the habitat, as determined through the project review."

"Development proposals in ESHA's including but not limited to those shown on the coastal land use maps, or which have the potential to impact an ESHA, shall be subject to a biological survey, prepared by a qualified biologist, to determine the extent of the sensitive resource, to document potential negative impacts, and to recommend appropriate mitigation measures. The biological survey shall be submitted for the review and approval of the Coastal Permit Administrator prior to a determination that the project application is complete."

The project would be located within an ESHA as a result of the necessity to disturb a rare plant population to accommodate the proposed development. The following code sections set forth the supplemental findings for projects located in ESHAs. Comments and recommendations contained in a letter dated July 23, 2001 from Gordon McBride follow each of the three (3) supplemental findings. Sections 20.532.100(A)(1)(a-c) states:

"No development shall be allowed in an ESHA unless the following findings are made:"

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(a) *"The resource as identified will not be significantly degraded by the proposed development."*

"Given that Bolander's Reed Grass is a demonstrably colonizing grass that will invade, colonize and prosper in disturbed sites in Closed Cone Coniferous forest, I submit that placing a building envelope closer than 50 feet to the Bolander's Reed Grass population will not jeopardize its survival on the site. As long as care is taken to avoid disturbing the existing clumps of Bolander's Reed Grass, I believe a building envelope could be permitted as close a [sic] ten feet to the grass clumps."

(b) *"There is no feasible, less environmentally damaging alternative."*

"Given the constraints of required setbacks from the Community Water Service (200 feet), the riparian plant community (50 feet), property boundary, septic system and so forth, there does not appear to be an adequate building envelope if an additional 50 foot setback is enforced from the Bolander's Reed Grass population as earlier recommended for the Moller/Spurrier site."

(c) *"All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted."*

"Furthermore, the clearing of a $\pm 23,337$ square foot area of the adjacent property for a septic system will create almost a half an acre of cleared land that at present only has scattered Bolander's Reed Grass growing in the few existing openings where soil tests were made. Once that land is cleared, given the seed bank and rhizome establishment of Bolander's Reed grass in the vicinity, I [sic] confident that Bolander's Reed Grass will establish a much larger population on the septic field within two years after the septic field is installed. Moreover, if the overstory vegetation and midlevel vegetation will be regularly discouraged on the proposed septic system, as I understand it must, that will contribute to the long term prosperity of the Bolander's Reed Grass population that will establish itself on the septic field."

"With these circumstances in mind I recommend that a building envelope be permitted within 10 feet of the Bolander's Reed Grass population as established by Surveyor Richard Seale in 1990 when he showed my flagging of the perimeter of that population on a map."

"I also recommend that the $\pm 33,227$ square foot area where the primary and secondary Wisconsin mounds septic systems will be established be taken as mitigation for providing a building envelope closer than the originally recommended 50 foot buffer for the Bolander's Reed Grass. Once the vegetation has been cleared in this area and the septic systems installed, I recommend that the overstory trees (primarily Bishop Pine and Douglas Fir as well as midlevel vegetation such as Rhododendron, Huckleberry and Wax Myrtle be periodically removed to favor the growth and continuance of the Bolander's Reed Grass as well as proper functioning of the septic system."

Staff conducted a subsequent site visit with Dr. McBride on July 19, 2001. At that time, it was discovered that the house footprint on the site plan prepared by Richard Seale, in which Dr. McBride annotated, did not correspond with the house location on the site plan submitted with the Coastal Development Permit application. Staff requested, in a letter dated August 2, 2001, that the house footprint be staked and strung so a revised site plan could be accurately annotated.

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STAFF REPORT FOR COASTAL DEVELOPMENT
STANDARD PERMIT

CDP# 39-00
February 28, 2002
CPA-6

A follow up site visit occurred late in December 2001 once the stakes and string were in place. Dr. McBride provided the following final comments in a letter dated January 3, 2002 which states:

"This letter summarizes my observations regarding the location of the proposed single family dwelling on the Moller/Spurrier site at 44696 Crestwood Drive, Mendocino.

Regarding the location of the proposed house, as indicated by the stakes placed by Mr. Richard Seale, it is clearly more than the ten foot minimum distance that I recommended from the Bolander's Reed Grass population that I identified on the site.

Regarding protection for the Bolander's Reed Grass during the single family dwelling construction phase of the project, I recommend the following:

- 1. Soil disturbance, grading or soil storage should be avoided in the area of the Bolander's Reed Grass population.*
- 2. Building materials should not be stored and construction debris should not be allowed to accumulate in the area of the Bolander's Reed Grass population.*
- 3. Significant modification of existing vegetation, as in landscaping and planting of ornamental vegetation should not be permitted in the area of the Bolander's Reed Grass population.*

Regarding monitoring of the establishment of Bolander's Reed Grass population in the area adjacent to the eastern property boundary where removal of existing vegetation is proposed for installation of the septic system, I do not believe it is necessary. Bolander's Reed Grass, as I indicated earlier, is a colonizing species that will reestablish itself vigorously in the area disturbed for the septic system."

Special Condition #2 is recommended to require the applicant to adhere to Dr. Gordon McBride's recommendations during project construction. Additionally, to ensure the construction crew does not inadvertently disturb the ESHAs on site, staff recommends protecting the riparian and rare plant population with temporary fencing during construction and maintaining the 50-foot non-disturbance buffer to maintain the functional capacity of the watercourse and integrity of the riparian habitat.

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. New land division shall not be allowed which will create new parcels entirely within a buffer area.

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Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent Environmentally Sensitive Habitat Area."

The proposed development within an ESHA has been justified by the consulting botanist, Dr. Gordon McBride. Dr. McBride has been observing plant life along the Mendocino Coast for over a decade – including Bolander's Reed Grass. Staff discussed the project with Liam Davis of the Department of Fish and Game in which copies of the botanical surveys and correspondence were requested. On August 3, 2001, staff sent the Department of Fish and Game copies of all received botanical correspondence for comment. Staff received no response.

Since the time that the botanical surveys were conducted and recommendations formulated, the applicant has revised the site plan by relocating the driveway and parking area to the south of the residence and thereby completely avoiding the recommended rare plant and riparian buffer areas. However, staff recommends Special Condition #1 should still be applied to the project to ensure surface discharge is not concentrated into the stream channel.

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 construction.

Groundwater Resources

The proposed development would be served by the Big River Vista Mutual Water Company community water system and would not adversely affect groundwater resources. A letter dated August 1, 1996 states the applicant has rights to be served by the Big River Vista Mutual Water Company.

The proposed development would be served by a proposed septic system and would not adversely affect groundwater resources. The applicant has secured a septic drain field easement agreement from the adjacent property owner to the east of the subject parcel, Georgia-Pacific West, Inc. A copy of this agreement and clearance from Environmental Health are contained in the case file.

Transportation/Circulation

The project would contribute incrementally to traffic on local and regional roadways. The cumulative effects of traffic due to development on this site were considered when the Coastal Element land use designations were assigned. No adverse impacts would occur.

The parcel is situated along a private access road, however, the private road begins at the terminus of Crestwood Drive (CR 407RR). A referral response from the Mendocino County Department of Transportation dated May 24, 2000 states:

"As determined from our site review, the existing private road approach at the end of Crestwood Drive (CR 407RR), which serves the subject property, is adequately paved and in conformance with County standards. However, our road foreman has indicated that the ditches for this private

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road are not adequately maintained, resulting in water sheet flowing down the private road and across the cul-de-sac of Crestwood Drive. This leaves sediment and debris on the County road which requires constant clean-up during the winter months. To address this issue, we recommend that the applicant clean the private road ditch in accordance with the following condition of approval:

Applicant shall clean out the ditch for the private road serving the subject property, to the satisfaction of the Department of Transportation, for a minimum distance of 200 feet from the end of Crestwood Drive (CR 407RR)."

The subject parcel is located approximately 1,000 feet from the end of Crestwood Drive. Therefore, staff requests that the Coastal Permit Administrator determine whether a reasonable correlation exists between the proposed development and the maintenance of the private road. This will allow the applicant and the Coastal Permit Administrator to comment on the recommended condition in a public forum. Staff notes that no environmentally sensitive habitat areas were apparent in or near the area requested for ditch maintenance. In the event that the Coastal Permit Administrator can justify the requested maintenance, then the aforementioned condition should be applied as an additional Special Condition. The condition should read as follows:

"Prior to the final building inspection, the applicant shall clean out the ditch for the private road serving the subject property, to the satisfaction of the Department of Transportation, for a minimum distance of 200 feet from the end of Crestwood Drive (CR 407RR)."

Zoning Requirements

- ☒ The project, as conditioned, complies with all of the zoning requirements of Division III of Title 20 of the Mendocino County Code.

PROJECT FINDINGS AND CONDITIONS: Pursuant to the provisions of Chapter 20.720 of the Town of Mendocino Zoning Code, staff recommends the Coastal Permit Administrator approve 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

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STAFF REPORT FOR COASTAL DEVELOPMENT
STANDARD PERMIT

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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.
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.

SUPPLEMENTAL FINDINGS FOR DEVELOPMENT IN ENVIRONMENTALLY SENSITIVE HABITAT AREAS (ESHAs):

8. The resource as identified 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. The permit shall become effective on or after June 12, 2000 and shall expire and become null and void at the expiration of two years after granting 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 III 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.

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STAFF REPORT FOR COASTAL DEVELOPMENT
STANDARD PERMIT

CDP# 39-00
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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.

SPECIAL CONDITIONS:

1. To ensure the ongoing protection of the riparian plant community, the applicant shall surface the driveway and parking area with gravel or other similar surfacing. Paving of the driveway or parking area with an impervious surface shall be prohibited. Should paving of the driveway or parking area become necessary in the future, the applicant shall submit documentation and justification by a qualified botanist to ensure the ongoing integrity of the resource will not be compromised. Said documentation shall be subject to the review and approval of the Coastal Permit Administrator or shall require a modification to the Coastal Development Permit.
2. Soil disturbance, grading or soil storage shall be prohibited in the area of the Bolander's Reed Grass population. Building materials shall not be stored and construction debris shall not be allowed to accumulate in the area of the Bolander's Reed Grass population. With the exception of the area to be cleared for the septic system, significant modification of existing vegetation, as in landscaping and planting of ornamental vegetation shall not be permitted in the area of the Bolander's Reed Grass population. Prior to project commencement, the applicant shall install temporary fencing at the edge of the 50-foot buffer for the riparian area and around the Bolander's Reed Grass

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STAFF REPORT FOR COASTAL DEVELOPMENT
STANDARD PERMIT

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populations in the vicinity of the footprint of the residence. The fencing shall remain in place until the building permit is finalized and the site is absent of any project-related debris or equipment.

Coastal Development Permit Prepared By:

2/19/02
Date

Robert Dostalek
Robert Dostalek
Coastal Planner

Attachments: Exhibit A: Location Map
Exhibit B: Site Plan (w/ESHA buffer areas)
Exhibit C: Lower Level Floor Plan
Exhibit D: Upper Level Floor Plan
Exhibit E: Front Elevation
Exhibit F: Left Elevation
Exhibit G: Right Elevation
Exhibit H: Rear Elevation

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CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE

MAILING ADDRESS:

710 E STREET • SUITE 200

P. O. BOX 4908

EUREKA, CA 95501-1865

EUREKA, CA 95502-4908

VOICE (707) 445-7833

FAX (707) 445-7877



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APR 02 2002

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

CALIFORNIA
COASTAL COMMISSION

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

SECTION I. Appellant(s)

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

Sierra Club, Redwood Chapter c/o Dr. Hillary Adams
P.O. Box 1936
Mendocino, CA 95460 714 877-3527
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port
government: Mendocino County

2. Brief description of development being
appealed: 1,680 sq ft. residence, wisconsin mound septic,
in riparian area + ESHA, pygmy soil probable

3. Development's location (street address, assessor's parcel no., cross-
street, etc.): 44696 Crestwood Drive APN 119-370-10
Mendocino

4. Description of decision being appealed

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

Note: For jurisdiction 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-02-019

DATE FILED: 4/2/02

DISTRICT: North Coast

EXHIBIT NO. 6

APPLICATION NO.
A-1-MEN-02-019

MOLLER/SPURRIER

APPEAL (1 of 3)

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

- Significant riparian and ESHA area reduced from 100' minimum buffer by McBride to 50' without giving reason based on scientific evidence. LCP 3.1 et seq, esp d-7) + CEC 20.496(020 + 025) et seq; Coastal Act 30240 etc.
- Pygmy soil in area of development not identified (LCP 3.1 et seq) (C2C 20.496.045)
- no drainage plan
- Calif. Dept. of Fish and Game did not give official comment.

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

SECTION V. Certification

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

Hillary Adams
Signature of Appellant(s) or
Authorized Agent

Date March 27, 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 _____

SIERRA CLUB

Redwood Chapter

P. O. Box 466
Santa Rosa, CA. 95402-0466

RECEIVED

March 26, 2002

APR 02 2002

Mr. Randy Stemler

Coastal Commission

Northcoast District Office

P. O. Box 4908

Eureka, CA. 95502-4908

CALIFORNIA

COASTAL COMMISSION

Re: Mendocino County CDP 39-00

Dear Mr. Stemler:

Enclosed is the Sierra Club, Redwood Chapter appeal of Mendocino County CDP 39-00 (Moller/Spurrier; agent, Bud Kamb).

The property involved has a significant riparian area and a Environmentally Sensitive Habitat Area (ESHA). Both have been identified by the applicant or his agents. However, the application and reports did not identify what appears to be pygmy soil in the area planned for the house development (LCP 3.1 et seq). When I looked at the lot, the light-colored soil in this area was streaming with water over the entire surface after several weeks of dry weather. Very little grass grows there. The immediate neighbor (C. Robson) informed me that during the summer, the area became hard and cracked. There is no drainage plan for the project. The neighbor attended the hearing and was concerned about drainage and the impact on her property.

The minimum 100' buffer required by the certified Local Coastal Program (LCP 3.1-7; CZC 20,496,020/025) was reduced to 50' without giving scientific reasons for this reduction. This project, like others which the County of Mendocino has recently approved [Spies: A-1-MEN-02-014; Brorson/Egleston: A-1-MEN-02-012] did not include official comments from the California Department of Fish and Game. A statement was read by the Coastal Commissioner at the hearing which led the public to believe it was an official comment, but that proved not to be the case. The County of Mendocino has consistently failed to follow its own certified Local Coastal Program in this regard.

Small wetlands and ESHA's are important for the protection of wildlife. The cumulative impact created by the consistent reduction to 50' by agents hired by the applicants of this and other projects is significant. We ask that you find substantial issue for this case and that the County be required to follow its own LCP.

Sincerely,

Hillary Adams

Dr. Hillary Adams

c: Redwood Chapter

3 of 3

Adams: P. O. Box 1936, Mendocino, CA. 95460

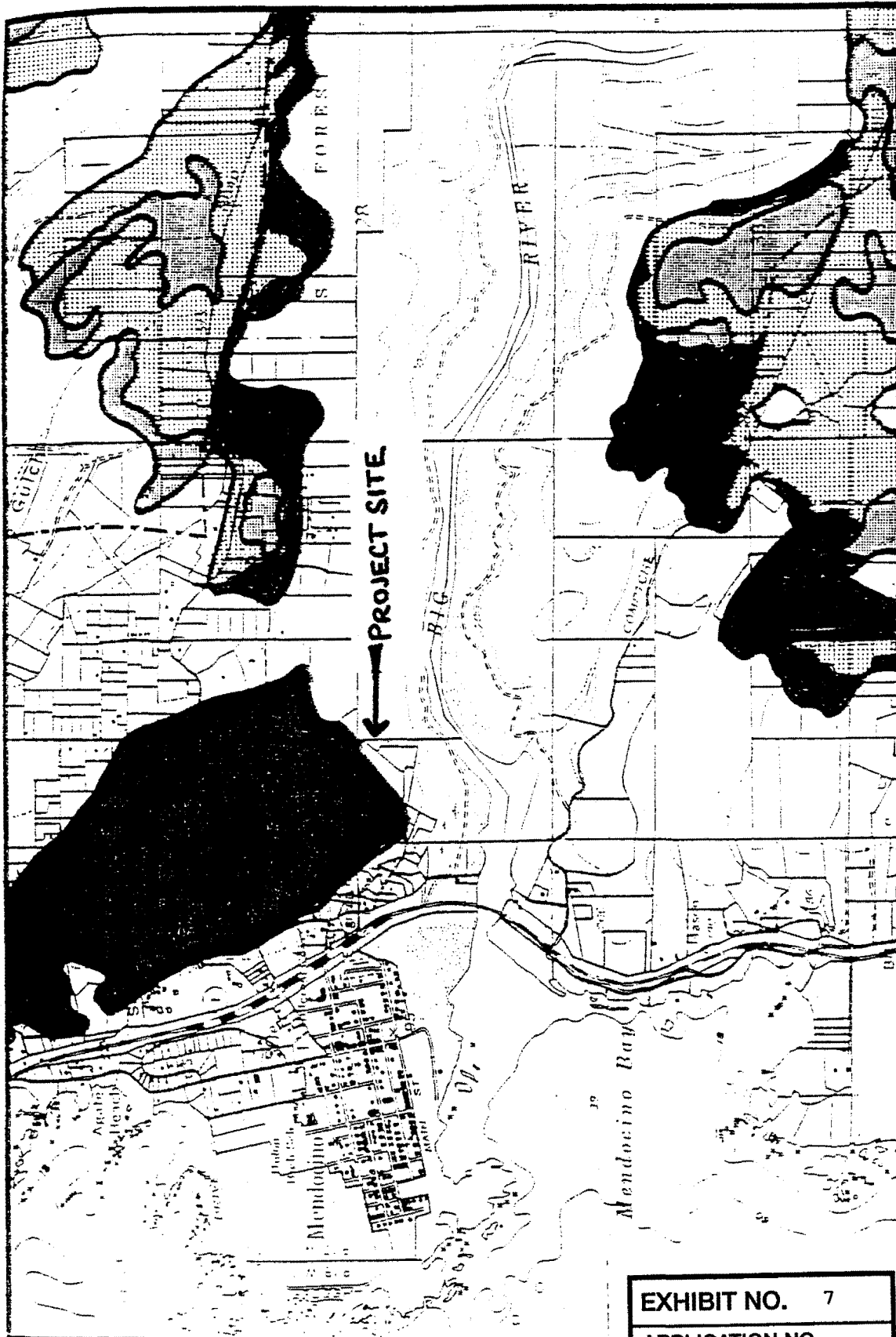






EXHIBIT NO. 7

APPLICATION NO.
A-1-MEN-02-019

MOLLER/SPURRIER

PYGMY SOILS MAP

Pygmy Vegetation Amendments

-  Pygmy Soils
-  Pygmy Type Soils
-  Soils Area Added
-  Vegetation Area Deleted

0 600 1200 1800 Ft

