

CALIFORNIA COASTAL COMMISSION

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Filed:	August 2, 2002
49 th Day:	September 20, 2002
Staff:	Robert S. Merrill
Staff Report:	August 30, 2002
Hearing Date:	September 11, 2002
Commission Action:	

STAFF REPORT: APPEAL**SUBSTANTIAL ISSUE**

APPEAL NO.:	A-1-FTB-02-018
APPLICANT:	Dominic & Robert Affinito
LOCAL GOVERNMENT:	City of Fort Bragg
DECISION:	Approval with Conditions
PROJECT LOCATION:	Adjacent to the north end of the Highway One Noyo Bridge, at 1005 South Main Street, Fort Bragg (APN 018-120-019).
PROJECT DESCRIPTION:	Construction of a 39-room hotel with detached lobby building (21,756 square feet total), 40-space parking lot, emergency access road, exterior lighting, landscaping, and trash enclosure.
APPELLANTS:	<ol style="list-style-type: none">1) Commissioners John Woolley and Mike Reilly;2) Sierra Club Mendocino Group, Attention: Ron Guenther & Friends of Fort Bragg, Attention: Roanne Withers

SUBSTANTIVE FILE:
DOCUMENTS

(1) City of Fort Bragg CDP 2-00/SCR 2-96-00/VAR 7-00; and 2) City of Fort Bragg Local Coastal Program

SUMMARY OF STAFF RECOMMENDATION

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

The development, as approved by the City, consists of the construction of the North Cliff Hotel, a 21,756-square-foot, 39-room hotel including a detached lobby, together with a 40-space parking lot, emergency access road, exterior lighting, landscaping, and trash enclosure on an approximately .82-acre site located at 1005 South Main Street, Fort Bragg, Mendocino County. The approval is after the fact, as the hotel has already been built and is currently occupied. Although a coastal development permit was granted in 1992 for construction of a hotel at the site, the hotel that was ultimately built differed significantly from what was approved under the 1992 approval. The new local approval on appeal authorizes the development as constructed with conditions requiring certain changes to building colors and materials, landscaping, and other elements of the project without requiring structural revisions.

The Commission received two appeals of the City of Fort Bragg's decision to approve the development, one from the Sierra Club Mendocino Group and the Friends of Fort Bragg, and the other from Coastal Commissioners John Woolley and Mike Reilly. Both appeals raise contentions involving inconsistency with the City's LCP policies regarding the protection of visual resources. The appeals cite the greater blockage of views from Highway One caused by the approved project than the blockage of views that would have been caused by the original design of the hotel approved in 1992, the highly contrasting color scheme required by the City, and inconsistencies with setback requirements and height limitations as factors that contribute to the project as approved adversely affecting views to and along scenic coastal areas and causing the development to be incompatible with the character of the area inconsistent with the visual policies of the certified LCP.

Staff recommends that the Commission find that the project as approved, raises a substantial issue of conformance with the certified LCP with respect to LCP policies relating to visual resources. The significance of the coastal resources affected by the decision is great. Spectacular views are afforded through the project site from the Highway One crossing of the Noyo River of the ocean, the mouth of the river, and the surrounding headlands. In addition, the ocean view from this area is one of the only ocean views available within the city limits as views of the ocean through most

of the City's waterfront are blocked by intervening industrial development. The development places a great amount of development between the highway and the sea substantially blocking public views to and along the ocean. In addition, the approved contrasting colors of the development would serve to highlight the development and the development is inconsistent with LCP standards imposing height and street frontage setback requirements. As a result, the approved building stands out from its surroundings. Therefore, the Commission finds that the project as approved raises a substantial issue of conformance with the provisions of LUP Policy XIV-1 and FBMC Section 18.61.028(B) requiring that new development be sited and designed to protect views to and along the ocean and scenic coastal areas, and with the provisions of LUP Policy XIV-1, and FBMC Section 18.61.028(B) requiring that new development be visually compatible with the character of the surrounding area.

Staff also recommends that the Commission continue the de novo portion of the appeal hearing to a subsequent meeting.

The motion to adopt the staff recommendation of Substantial Issue is found on page 6.

STAFF NOTES

1. Related Litigation

The permit amendment approved with conditions by the City of Fort Bragg authorizes (after-the-fact) the development of the North Cliff Hotel as constructed. Although a local coastal development permit for a hotel on the site was approved in 1992, the hotel that was built differed substantially from the project that was approved by the City in 1992. Because of inconsistencies of the as-built hotel with the permit approvals granted for the project, the City of Fort Bragg denied an occupancy permit for the hotel in 1999 and both the City and the Commission informed the applicant that a coastal development permit amendment was needed to authorize the development of the North Cliff Hotel as constructed.

The City of Fort Bragg's denial of an occupancy permit for the hotel in 1999 and the assertions by the City and the Commission that a coastal development permit amendment was required to authorize the changes from the 1992 approval are currently the subject of litigation between the applicants, the City of Fort Bragg, and the Commission. The initial lawsuit was filed by the applicants against the City in 1999. The Commission subsequently intervened in this lawsuit and cross-claimed against the applicants for violations of the Coastal Act.

The case was bifurcated for trial with the writ of mandate cause of action tried first. The Mendocino County Superior Court issued an order on the petition for writ of mandate on

January 6, 2000 and a writ of mandate was directed to the City and the Commission on February 18, 2000. Among other things, the writ of mandate directed the City to grant an occupancy permit for the hotel, directed the applicants to apply for the necessary coastal development permit amendment to amend the hotel's CDP to conform to the hotel as it had been built, directed the City to process the coastal development permit application, and limited the discretion of the City during its coastal development permit review process, and the Commission during any appeal from the City's permit decision, to require changes to the height of the structure or other major structural revisions. There currently remains to be tried the applicants' inverse condemnation claims against the City and Commission. The Commission attempted to obtain appellate court review of the superior court's order on petition for writ of mandate both through a petition for writ of mandate to the First District Court of Appeal and an appeal. The petition for writ of mandate was denied, and the appeal was dismissed because a final judgment encompassing all causes of action had not yet been entered in the case. The Superior Court's writ of mandate, therefore, remains valid at this time. Although the Superior Court's writ of mandate is valid, it is possible that once the judgment is final, the Commission will choose to appeal the determination of the Superior Court that the Commission may not impose any changes on the height of the structure, as well as other portions of the Superior Court's decision.

As the outcome of the litigation will define the discretion of the Commission to consider changes to the approved project on appeal, Commission staff would prefer, if it were possible, for the Commission to wait for a final judgment in the case before acting on any appeal of the project as approved by the City. However, waiting for final resolution of the case is not possible as the statutory deadlines for filing an appeal and opening a public hearing on any appeal filed have not been stayed. To preserve both the rights of interested persons to appeal the local government's approval and the rights of the Commission to act on the appeals of the local government action that have been filed, the Commission staff has scheduled the public hearing on the appeal to be opened at the September 11, 2002 Commission meeting in accordance with Coastal Act deadlines for setting a hearing on an appeal of a locally approved coastal development permit. Consistent with section 30625 of the Coastal Act, staff is recommending that the Commission find that the project as approved, raises a substantial issue of conformance with the certified LCP. Staff further recommends that the Commission continue the de novo portion of the appeal hearing to a subsequent meeting.

2. Appeal Process

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

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

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

The subject development is appealable to the Commission because: (1) it is located between the sea and the first public road paralleling the sea; and (2) it is located within 300 feet of the top of a seaward face of a coastal bluff.

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.

3. Filing of Appeal.

The Commission received two appeals of the City's decision to grant a permit with conditions for the project including an appeal filed jointly by the Sierra Club Mendocino Group & Friends of Fort Bragg (Exhibit 9), and a separate appeal filed jointly by Commissioners Woolley and Reilly (Exhibit 8). The appeals were filed on August 2,

2002 and August 13, 2002, respectively. Each appeal to the Commission was filed in a timely manner within 10 working days of receipt by the Commission on July 30, 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-FTB-02-018 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-FTB-02-018 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

A. APPELLANTS' CONTENTIONS

The Commission has received two appeals of the City of Fort Bragg's decision to approve the development. One appeal was received from the Sierra Club Mendocino Group and the Friends of Fort Bragg (herein "Appellants A") A second appeal was received from Coastal Commissioners John Woolley and Mike Reilly (herein "Appellants

A"). The appellants' contentions are summarized below, and the full text of the contentions is included as Exhibit Nos. 8 and 9.

Both appeals raise contentions involving inconsistency with the City's LCP policies regarding the protection of visual resources. The appeal submitted by Commissioners Woolley and Reilly cite the greater blockage of views from Highway One caused by the approved project than the blockage of views that would have been caused by the original design of the hotel approved in 1992, the highly contrasting color scheme required by the City, and inconsistencies with setback requirements as factors that contribute to the project as approved adversely affecting views to and along scenic coastal areas and causing the development not to be compatible with the character of the area inconsistent with the visual policies of the certified LCP. The appeal submitted by the Sierra Club Mendocino Group and the Friends of Fort Bragg also cites an inconsistency of the height of the development as approved with the height limitations as contributing to the approved project's inconsistency with the visual policies of the certified LCP.

In addition, Appellants A also contend that the project as approved is inconsistent with LCP policies regarding parking, seismic safety, adequate water services, drainage, traffic impacts on Highway One. Furthermore, Appellants A contend that the City of Fort Bragg's review of the project was inconsistent with the California Environmental Quality Act (CEQA) because the City did not prepare and environmental impact report for the project.

B. PROJECT HISTORY

In 1992, the City of Fort Bragg approved Coastal Development Permit No. CDP 10-92 for the development of a 40-room hotel on a .82 acre site immediately north of the Noyo River bridge. The coastal development permit was not appealed to the Commission. The City also approved a Scenic Corridor Review Permit for the development.

In 1996, the applicants submitted an application to amend the Scenic Corridor Review permit which was approved by the Fort Bragg Planning Commission. No amendment to CDP 10-92 was processed or approved. In 1997, the applicants applied for and received building permits and constructed the hotel that is currently on the site. The hotel as built differs substantially from both the hotel development approved under CDP 10-92 in 1992 and from the Scenic Corridor Review permit approved in 1997.

In 1998, the applicants applied to the City to amend the scenic corridor review and to amend the coastal development permit to bring certain aspects of the hotel as built into conformance with permit requirements. The permit applications were denied by the City and denied issuance of occupancy permits. The applicants later filed suit.

The current permit approval of the City as conditioned, conforms the development with the City's permit requirements.

C. LOCAL GOVERNMENT ACTION

Earlier in 2002, the Fort Bragg Planning Commission approved Coastal Development Permit No. 2-00 for the subject development. The Planning Commission attached a number of conditions, including conditions that required changes to building materials and colors. The applicant objected to some of these conditions and appealed the Planning Commission decision to the City Council. The Council considered the appeal over the course of several meetings. In its action on the appeal on July 22, 2002, the Council adjusted a number of the conditions that had been imposed by the Planning Commission. The result of the Council's action was to approve Coastal Development Permit No. 2-00 for the development subject to eight special conditions and six standard conditions. The full text of the City's findings and conditions are included in Exhibit 7. Upon approval of the project, the City issued a Notice of Final Action, which was received by Commission staff on July 30, 2002. (Exhibit 7).

D. PROJECT AND SITE DESCRIPTION

The approved project consists of the construction of the North Cliff Hotel, a 21,756-square-foot, 39-room hotel including a detached lobby, together with a 40-space parking lot, emergency access road, exterior lighting, landscaping, and trash enclosure on an approximately .82-acre site located at 1005 South Main Street, Fort Bragg, Mendocino County. The combined floor area of the two buildings is 21,756 square feet. There is one access road to and from Main Street, located at the northeast corner of the site. On-site access is provided via a one-way looped driveway which extends along the western and eastern boundaries of the triangular shaped parcel. Parking is provided in a lot situated between the two buildings. A nominal amount of grading was performed to prepare the site, and no materials were exported. Almost the entire lot is covered with impermeable surfaces, including structures, parking lots and access ways.

The approved hotel is located on visually prominent bluff-top property on the northwest side of the Noyo River, adjacent to the Highway One bridge over the river. The parcel is immediately visible from Highway One and the Highway One bridge, and the approved project places significant new development between the highway and the sea. The bridge crossing of the Noyo River is one of the limited opportunities within the city limits of Fort Bragg where the public is afforded views of the ocean. Most of the Fort Bragg waterfront is devoted to private industrial uses that block views of the ocean and preclude public access to the shoreline. The views of the ocean, the mouth of the Noyo River, and the Noyo River headlands from the bridge including views from the highway through the project site are among the most spectacular within the City.

The hotel building is located on the lower elevations of the site, on a relatively steep slope. Because of the site topography, the hotel building appears considerably higher than three stories

on its south façade. At the southeast corner, the structure is 64' above grade. The building is 35' above the elevation of the Noyo Bridge, as viewed from the east. The lobby building is located to the north, on the upper elevations of the site. The North Cliff Hotel is currently clad with Hardiplank siding, painted a tan color with white trim and blue and red accents, and has a light blue standing seam metal roof. As approved by the City, the exterior of the building is required to be painted olive branch green with cream colored trim. The conditions of approval require the light blue roof to be painted a weathered copper color.

E. 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.

As discussed below, one of the contentions raised in the appeal does not present potentially valid grounds in that it does not allege the project's inconsistency with policies of the certified LCP or with the public access policies of the Coastal Act. All of the other contentions raised by the appellant are valid grounds for appeal under Section 30603 and are discussed further, below.

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

All but one of the contentions raised in the two appeals present potentially valid grounds for appeal in that they allege the project's inconsistency with policies of the certified LCP and/or with the public access policies of the Coastal Act. These contentions allege that the approved project is inconsistent with LCP provisions regarding: (1) the protection of visual resources; (2) parking; (3); seismic safety, (4) adequate water services; (5) drainage; and (6) traffic impacts on Highway One. The Commission finds that the contentions that the approved project is inconsistent with LCP provisions regarding the protection of visual resources raise a substantial issue, for the reasons discussed below.

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

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

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will

hear an appeal unless it "finds that the appeal raises no significant question." (Cal. Code Regs., Title 14, Section 13115(b).) In previous decisions on appeals, the Commission has been guided by the following factors:

- 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;
- The extent and scope of the development as approved or denied by the local government;
- The significance of the coastal resources affected by the decision;
- The precedential value of the local government's decision for future interpretations of its LCP; and
- Whether the appeal raises only local issues, or those of regional or statewide significance.

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

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that with respect to the allegations regarding visual resource protection, a substantial issue exists with regard to the approved project's conformance with the certified City of Fort Bragg LCP.

a. Allegations Raising Substantial Issue

Protection of Visual Resources

The appellants contend that the project as approved is not consistent with certain policies of the certified Local Coastal Program regarding the protection of visual resources. The appellants cite: (1) the greater blockage of views from Highway One caused by the approved project as compared to the blockage of views that would have been caused by the original design of the hotel approved in 1992; (2) the highly contrasting color scheme required by the City; (3) inconsistencies with setback requirements, and (4) an inconsistency of the height of the development as approved with LCP height limitations as factors that all contribute to the project as approved significantly adversely affecting views to and along scenic coastal areas and causing the development to be incompatible with the character of the area inconsistent with the visual policies of the certified LCP. The appellants specifically cite inconsistencies with LUP Policy XIV-1 and Fort Bragg Municipal Code Sections 18.26.010, 18.26.040(D)(1)(a), and 18.61.028(B).

LCP Policies and Standards

Policy XIV-1—General Policy on Visual Resources states: *"New development within the City's coastal zone shall be sited and designated (sic) to protect views to and along the ocean, be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas."*

Fort Bragg Municipal Code Section 18.26.010—General Purpose and Intent states in applicable part: *"The provisions of this zone are intended to address architectural, site planning and access issues and standards to provide for convenience and to ease traffic congestion and aesthetic impacts on areas along highways [emphasis added]."*

Fort Bragg Municipal Code Section 18.26.040(D)(1)(a)—Development Standards for Minimum Yard Setback Requirements for Buildings (within the Highway & Visitor Service Commercial District) states in applicable part: *"Street frontage – Five (5) feet except: 1) fifteen (15) feet on highways [emphasis added]."*

Fort Bragg Municipal Code Section 18.61.028(B)—Coastal Visual Resources and Special Communities states in applicable part: *"Permitted development within Coastal scenic corridors, where otherwise consistent with the Coastal Land Use Plan, shall, as determined by the approving authority:*

- 1. Minimize the alteration of natural landforms;*
- 2. Be visually compatible with the character of the surrounding area;*
- 3. Be sited and designed to protect views to and along the ocean and scenic coastal areas."*

Fort Bragg Municipal Code Section 18.26.040(E)—Development Standards for Maximum Building Height (within the Highway & Visitor Service Commercial District) states in applicable part: *"Maximum Building Height – thirty-five (35) feet."*

Fort Bragg Municipal Code Section 18.72.050(A)—Height Limitations-Modifications states in applicable part: *"Height of buildings and structures shall be measured vertically from the average ground level of the ground covered by the building to the highest point of the roof."*

Discussion

The approved 21,756-square-foot, 39-room hotel is located on visually prominent bluff-top property on the northwest side of the Noyo River, adjacent to the Highway One bridge over the river. The parcel is immediately visible from Highway One and the Highway One bridge, and the

approved project places significant new development between the highway and the sea. The bridge crossing of the Noyo River is one of the limited opportunities within the city limits of Fort Bragg where the public is afforded views of the ocean. Most of the Fort Bragg waterfront is devoted to private industrial uses that block views of the ocean and preclude public access to the shoreline. The views of the ocean, the mouth of the Noyo River, and the Noyo River headlands from the bridge including views from the highway through the project site are among the most spectacular within the City.

The appellants contend that the approved development is in conflict with Policy XIV-1 of the certified Land Use Plan (LUP), and is inconsistent with provisions of Chapters 18.26 and 18.61 of the certified Fort Bragg Municipal Code (FBMC). LUP Policy XIV-1 requires that new development "...protect views to and along the ocean," and "...be visually compatible with the character of surrounding areas..." The applicable portion of Section 18.26.010 of the certified FBMC is intended to address "*aesthetic impacts on areas along highways.*" As shown on the certified Fort Bragg Zoning Map, and as delineated by Section 18.61.028(A)(1), the North Cliff Hotel is located in a Scenic Corridor Combining Zone governed by Section 18.61.028(B)(2) and Section 18.61.028(B)(3) requiring that permitted development within the Coastal Scenic Corridor be "*visually compatible with the character of the surrounding area;*" and be "*sited and designed to protect views to and along the ocean and scenic coastal areas.*"

The appellants allege four specific inconsistencies of the project as approved with LCP policies that together raise a substantial issue of conformance of the project as approved by the City with the certified visual resource protection policies of the LCP. These four inconsistencies relate to: (1) the greater blockage of views from Highway One caused by the approved project than the blockage of views that would have been caused by the original design of the hotel approved in 1992; (2) the highly contrasting color scheme required by the City; (3) inconsistencies with setback requirements; and (4) an inconsistency of the height of the development as approved with LCP height limitations.

View Blockage. The appellants point out that the height of the approved structure would block views from the Highway One Noyo River Bridge for people traveling southbound across the bridge. The upper story of the southern wing of the building extends for a significant distance along the west side of the northern end of the bridge, blocking views of the ocean, the mouth of the harbor, and adjoining scenic coastal areas for southbound travelers over that distance. The original hotel design approved in 1992 would have significantly less effect on these views, as the original hotel design incorporated more of a stepped back design that would conform more with the slope of the bluff than the as built design. This stepped back design resulted in less of the building extending above the Highway One Bridge than the current hotel design approved by the City. Therefore, an alternative to the project approved under CDP 2-00 exists that would better protect views to and along the ocean as required by LUP Policy XIV-1 and FBMC Section 18.61.028(B).

In its findings for approval of the project, the City notes that the Order and Writ that the Mendocino Superior Court issued in 2000 in the litigation between the City and the Commission and the applicant over the project limited the discretion of the City during its coastal development permit review process, and the Commission during any appeal from the City's permit decision, to require changes to the height of the structure or other major structural revisions. However, a final judgment has not yet been entered in the litigation and it is possible that once the judgment is final, the Coastal Commission will choose to appeal the determination of the Superior Court that the Commission may not impose any changes on the height of the structure as well as other portions of the Superior Court decision. Moreover, pursuant to Coastal Act requirements, the standard of review that must be applied to the review of a coastal development permit application within the area of a certified Local Coastal Program between the first public road and the sea is the policies and standards of the certified LCP and the public access policies of the Coastal Act. Therefore, in order to preserve the rights of interested persons to appeal and the rights of the Commission to act on such appeal consistent with the Coastal Act, the consistency of the structural height and mass of the project as approved with LCP policies and alternative structural designs that could achieve consistency with LCP policies must be considered. As the project as approved would block significant views to and along the ocean from Highway One to a much greater degree than the original project approved in 1992, the Commission finds that the project as approved raises a substantial issue of conformance with the provisions of LUP Policy XIV-1, and FBMC Section 18.61.028(B) requiring that new development be sited and designed to protect views to and along the ocean and scenic coastal areas.

Contrasting Color Scheme. The appellants allege that the color approved for painting the building trim is "white mantle," a very light color that is too light and will be out of character with the surrounding environment. As constructed, the hotel has a blue metal roof and the exterior of the hotel is painted a cream color. In approving the project with conditions, the City determined that the cream and blue colors of the development would not be compatible with the earth tones of the vegetated hillside that forms a backdrop to the development and the dark colors of other development in the area. The City imposed conditions requiring that the exterior body of the hotel be repainted a particular olive branch green color and required that light blue metal roof be repainted with a non-reflective paint in a certain "weathered copper" color. These colors would likely blend well with the earth tone colors of the surrounding hillside and development. However, the conditions of approval imposed by the City require that the trim of the building be repainted a certain "white mantle" color and the permit approval also allows the use of white vinyl railings. The colors for the trim and railings would contrast significantly with the required olive branch green color of the exterior of the structure, the weathered copper color of the roof, and with the natural earth tone brown and green colors of the coastal bluffs and background vegetation at the site. As a result, the trim and railings would stand out and highlight the building as seen from Highway One, the harbor, the headlands, and other public vantage points in the area. Therefore, the Commission finds that a substantial issue is raised as to whether the approved development would conform

with the provisions of LUP Policy XIV-1, and FBMC Section 18.61.028(B) requiring that new development be visually compatible with the character of the surrounding area.

Setback Requirements. The approved project is subject to development standards imposing setback requirements for buildings. The appellants note that the City's approval of the permit is inconsistent with certified FBMC Chapter 18.26 for HVC – Highway and Visitor Service Commercial zoned property bordering highways, which requires development to have a minimum of fifteen (15) feet street frontage setback. The reduction in the required setback would place the building closer to the highway resulting in further interference with public coastal views from the highway and the visual character of the development. The City approved the permit with a variance for the development to encroach into the required 15-foot setback. In its adopted findings for approval, the City indicates that it does not have a factual basis for making the necessary findings for allowing the development to encroach into the required front yard setback. Finding 7 states in applicable part:

“The City does not have a factual basis to make the above findings for VAR 7-00, authorizing the encroaching of the hotel structure and trash enclosure into the required 15' minimum front yard setback established by FBMC § 18.26.040(D). However, the City finds that, based on the January 6, 2000 order and the February 18, 2000 writ of the Superior Court, which prohibit the City from requiring major or structural modifications to the hotel, the City must approve this variance or approve it with conditions which do not involved major modifications to the hotel structure. As a result of the order and writ, the City may not deny the variance and require major or structural modifications to the hotel.”

Thus, the City cited the constraints of the Mendocino County Superior Court Order and Writ issued in 2000 as a basis for approval of the encroachment into the required setback area. However, as noted above, a final judgment has not yet been entered in the litigation and it is possible that once the judgment is final, the Coastal Commission will choose to appeal the determination of the Superior Court that the Commission may not impose any changes on the height of the structure as well as other portions of the Superior Court decision. Moreover, pursuant to Coastal Act requirements, the standard of review that must be applied to the review of a coastal development permit application within the area of a certified Local Coastal Program between the first public road and the sea is the policies and standards of the certified LCP and the public access policies of the Coastal Act. Therefore, in order to preserve the rights of interested persons to appeal and the rights of the Commission to act on such appeal consistent with the Coastal Act, the consistency of the project with applicable setback requirements of the LCP must be considered. As the hotel encroaches into the required 15-foot street frontage setback and the City's findings indicate that the City had no factual basis to grant a variance and make findings of consistency with the LCP, the Commission finds that the project as approved raises a substantial issue of conformance with the provisions of FBMC Section 18.26.040(D)(1)(a).

Height Limitations. The appellants note that the height of the structure does not conform with the applicable height limitations of the LCP. FBMC Section 18.026.040(E) establishes a maximum building height of 35 feet in the Highway Visitor Commercial (HVC) district. Section 18.72.050(A) of the code specifies how the height must be measured, indicating that the height shall be measured vertically from the average ground level of the ground covered by the building to the highest point of the roof. Although the approved hotel is a maximum of 35 feet in height above the base elevation of the Noyo Bridge, which runs adjacent to the building and is elevated above the ground in that location, the height of the building exceeds 35 feet from the average ground level of the ground covered by the building. The additional height of the structure also adversely affects the compatibility of the development with the character of the surrounding area, as the structure appears much taller than surrounding buildings.

In agenda summaries prepared for consideration of the Planning Commission in its review of the project, City staff point out that pursuant to the Superior court order and writ, the City is estopped from using any elevation other than the elevation of the Noyo Bridge as base elevation of the hotel. However, as noted above, a final judgment has not yet been entered in the litigation and it is possible that once the judgment is final, the Coastal Commission will choose to appeal the determination of the Superior Court that the Commission may not impose any changes on the height of the structure as well as other portions of the Superior Court decision. Moreover, pursuant to Coastal Act requirements, the standard of review that must be applied to the review of a coastal development permit application within the area of a certified Local Coastal Program between the first public road and the sea is the policies and standards of the certified LCP and the public access policies of the Coastal Act. Therefore, in order to preserve the rights of interested persons to appeal and the rights of the Commission to act on such appeal consistent with the Coastal Act, the consistency of the project with the applicable height requirements of the LCP must be considered. As the height of the hotel exceeds the height limitations of the certified LCP, the Commission finds that the project as approved raises a substantial issue of conformance with the provisions of FBMC Sections 18.026.040(E) and 18.72.050(A).

Conclusion. The Commission finds that the significance of the coastal resources affected by the decision are great. As noted previously, views through the project site from the Highway One crossing of the Noyo River afford spectacular views of the ocean, the mouth of the river, and the surrounding headlands. In addition, the ocean view from this area is one of the only ocean views available within the city limits as views of the ocean through most of the City's waterfront are blocked by intervening industrial development. As discussed above, the development places a great amount of development between the highway and the sea substantially blocking public views to and along the ocean. In addition, the approved contrasting colors of the development would serve to highlight the development and the development is inconsistent with LCP standards imposing height and street frontage setback requirements. As a result, the approved building

stands out from its surroundings. Therefore, the Commission finds that the project as approved raises a substantial issue of conformance with the provisions of LUP Policy XIV-1 and FBMC Section 18.61.028(B) requiring that new development be sited and designed to protect views to and along the ocean and scenic coastal areas, and with the provisions of LUP Policy XIV-1, and FBMC Section 18.61.028(B) requiring that new development be visually compatible with the character of the surrounding area.

2. Appellant's Contentions That Are Not Valid Grounds for Appeal.

The appellant raises one contention that is not valid grounds for appeal. As discussed below, the contention raised regarding the adequacy of the CEQA documentation does not present potentially valid grounds for appeal in that it does not allege that the approved project is inconsistent with the LCP or the public access policies of the Coastal Act.

Discussion:

The City of Fort Bragg certified a Mitigated Negative Declaration for the project and did not prepare an EIR. Appellants Sierra Club Mendocino Group and Friends of Fort Bragg contend that an Environmental Impact Report (EIR) must be prepared for the project.

The California Environmental Quality Act provides that a Lead Agency can determine the appropriate level of environmental review for development activities that are proposed within their jurisdiction. The City determined that preparing and certifying a Mitigated Negative Declaration was the appropriate level of environmental review for the proposed development. The appellants do not cite a specific LCP policy that they feel the City's actions did not conform with in this regard. The concerns raised by the appellants do not allege the project's inconsistency with existing policies of the certified LCP. Thus the Commission finds that this contention is not a valid ground for appeal.

3. Conclusion

All of the various foregoing contentions raised by the appellants have been evaluated against the claim that they raise substantial issue in regard to conformance of the local approval with the certified LCP. The Commission finds that the project as approved raises a substantial issue of conformance with the certified LCP with respect to contentions raised concerning the protection of visual resources.

EXHIBITS

1. Regional Location
2. Location Map
3. Pre-1992 Site Conditions
4. As-Built Plans
5. 1992 Plans
6. Comparisons
7. Notice of Final Action
8. Commissioners' Appeal
9. Sierra Club, Friends of Fort Bragg Appeal

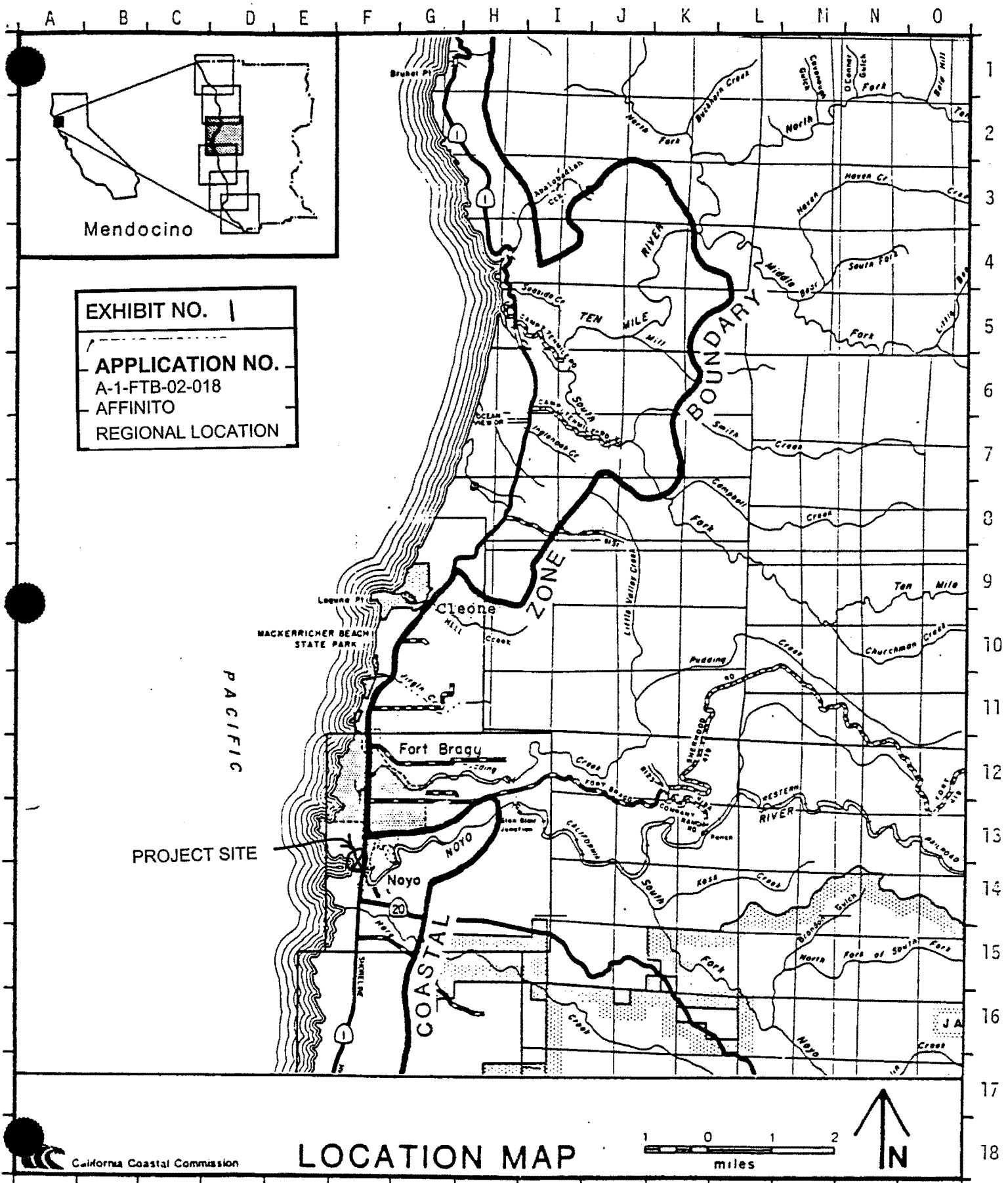
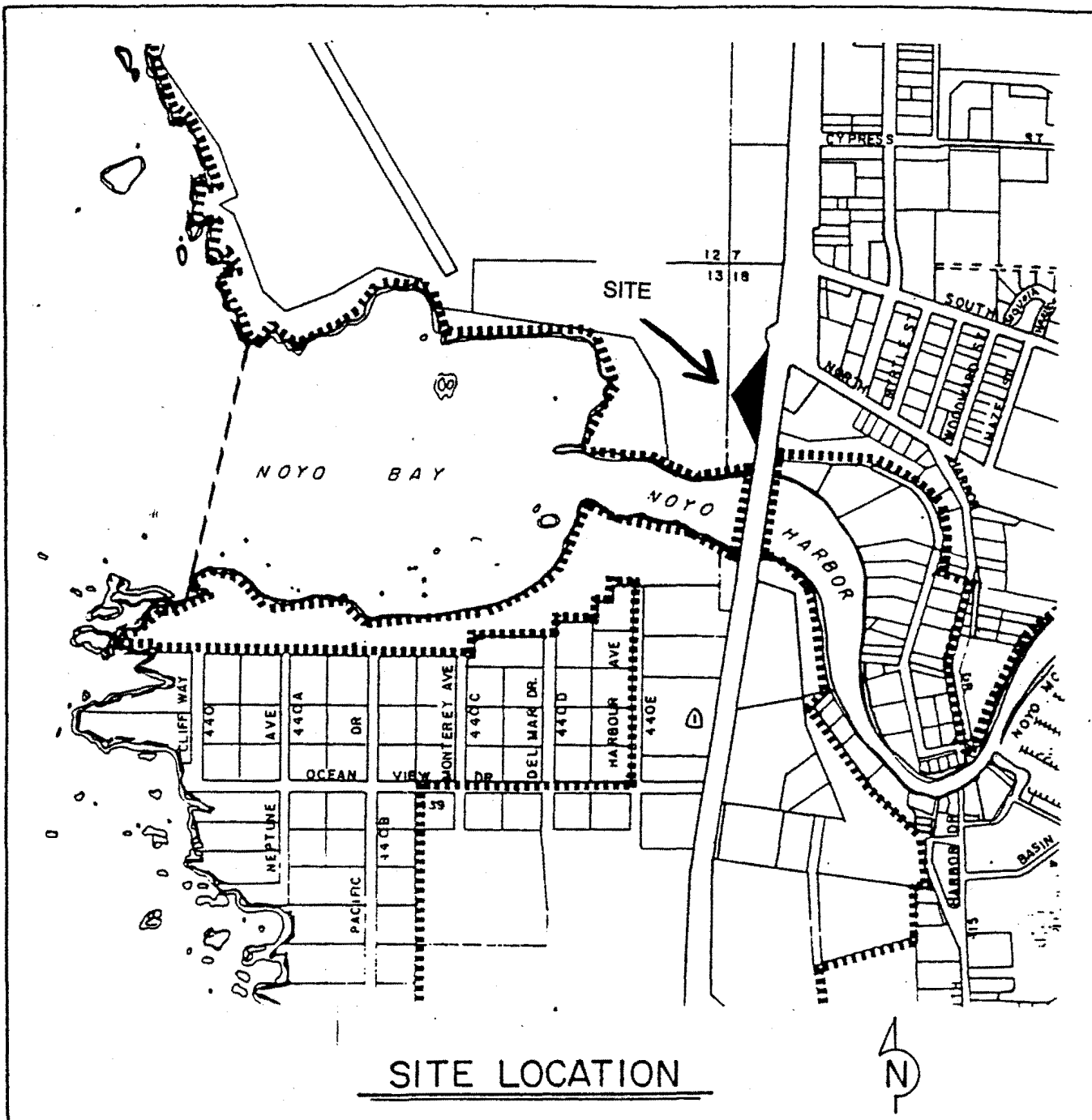


EXHIBIT NO. 1
 APPLICATION NO.
 A-1-FTB-02-018
 AFFINITO
 REGIONAL LOCATION

LOCATION MAP



Name of Applicant Mario Affinito (owner)
Jordan Valli Architects (agent)

Location of Project 1005 South Main Street AP# 018-120-19

Project Number CDP 10-92; SCR 2-92

Type of Application Scenic Corridor Review Permit
Coastal Development Permit

Hearing Date August 19, 1992 @ 2:00 p.m.

Hearing Location 416 N. Franklin St.

EXHIBIT NO. 2

APPLICATION NO.
 A-1-FTB-02-018
 AFFINITO
 LOCATION MAP

California Coastal Commission



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APPLICATION N
A-1-FTB-02-018
AFFINITO
PRE-1992 SITE
CONDITIONS

EXHIBIT NO. 5

APPLICATION NO.

A-1-FTB-02-018

AFFINITO

1992 PLANS (1 of 3)

jordan
valli

ARCHITECT
1000 S. GARDEN AVENUE
SUITE 100
GARDEN CITY, CA 95021
(415) 351-1000

CLEAR CONSULTANT

PROJECT TITLE
FT. BRAGG
HOTEL

1000 S. GARDEN AVENUE
SUITE 100
GARDEN CITY, CA 95021

SHEET TITLE
SITE PLAN



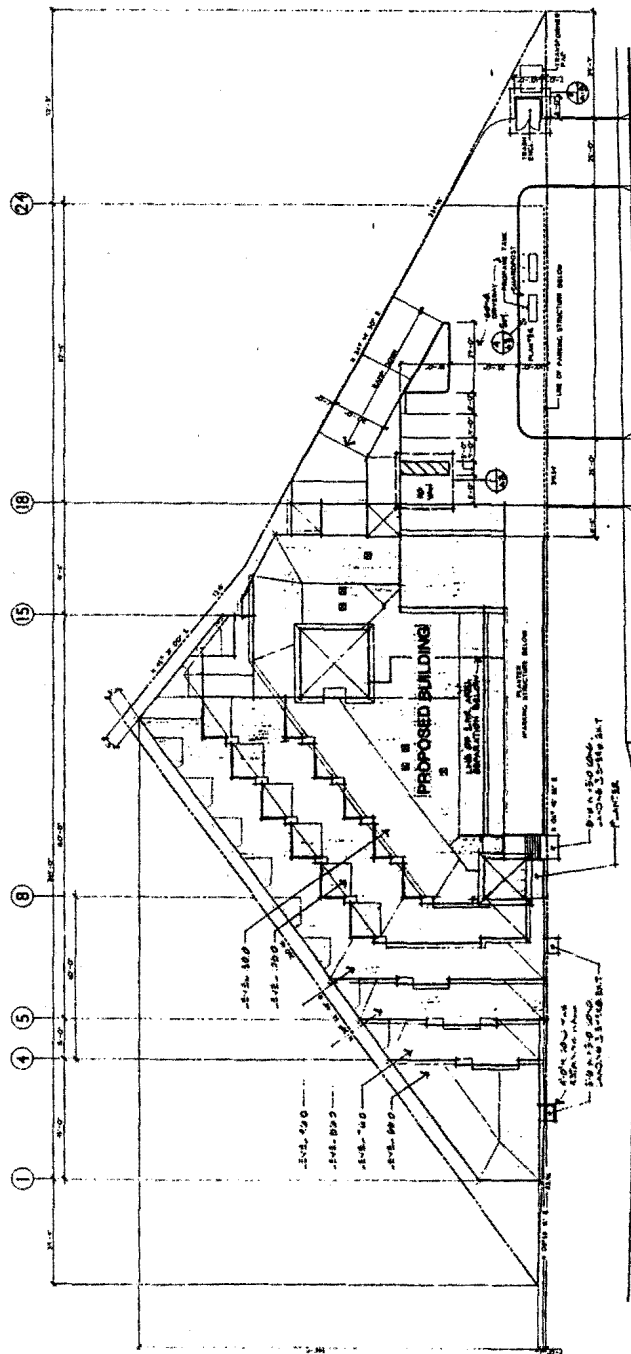
DATE: 1/7/93
BY: JAV
SHEET NUMBER

A-2

EXHIBIT 10
1992 Fort Bragg Hotel Site Plan

SITE PLAN NOTES

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3. THE CALCULATED "FILL" FOR THE PROPOSED
4. THE CALCULATED "FILL" FOR THE PROPOSED



STATE HIGHWAY 1

SITE PLAN

jordan
valli

CLIENT/CONSULTANT

PROJECT TITLE
FT. BRAGG HOTEL
1005 SOLAMIST ST.
FT. BRAGG, NC

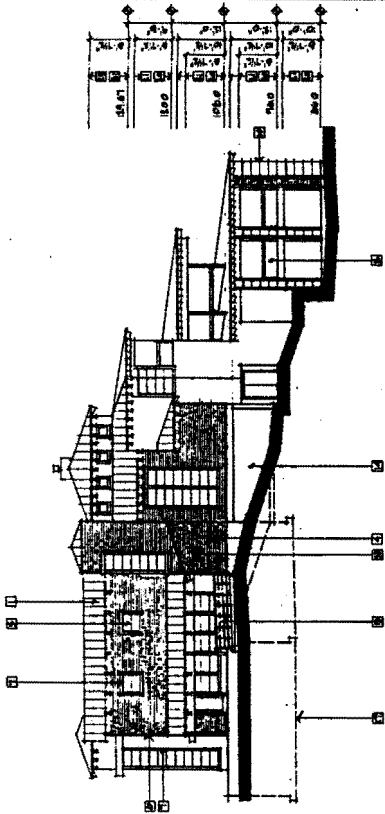
SHEET TITLE
BUILDING ELEVATIONS



DATE: 9-7-98
DRAWN BY: JVG
SHEET NUMBER
A-17

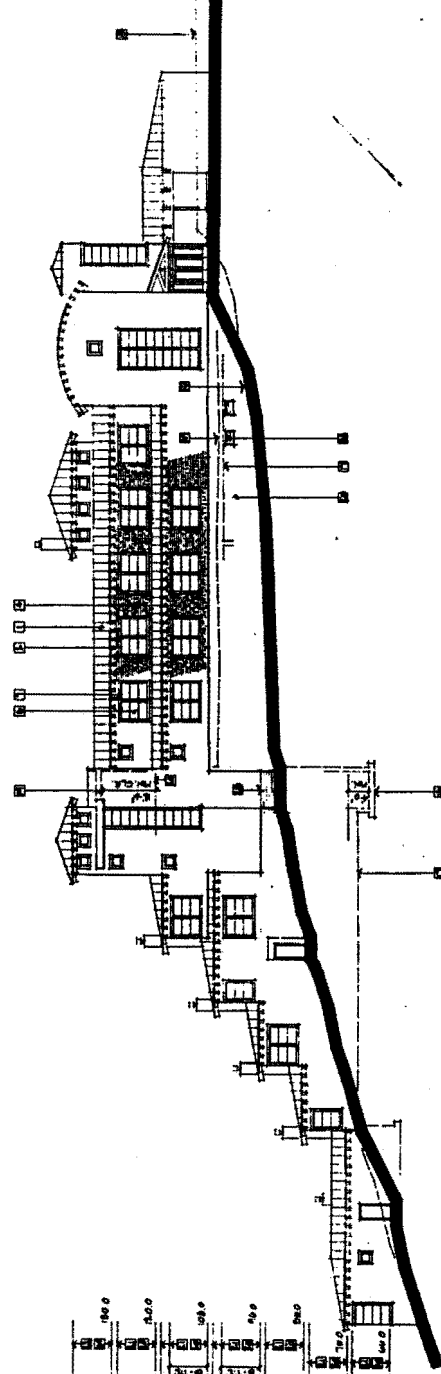
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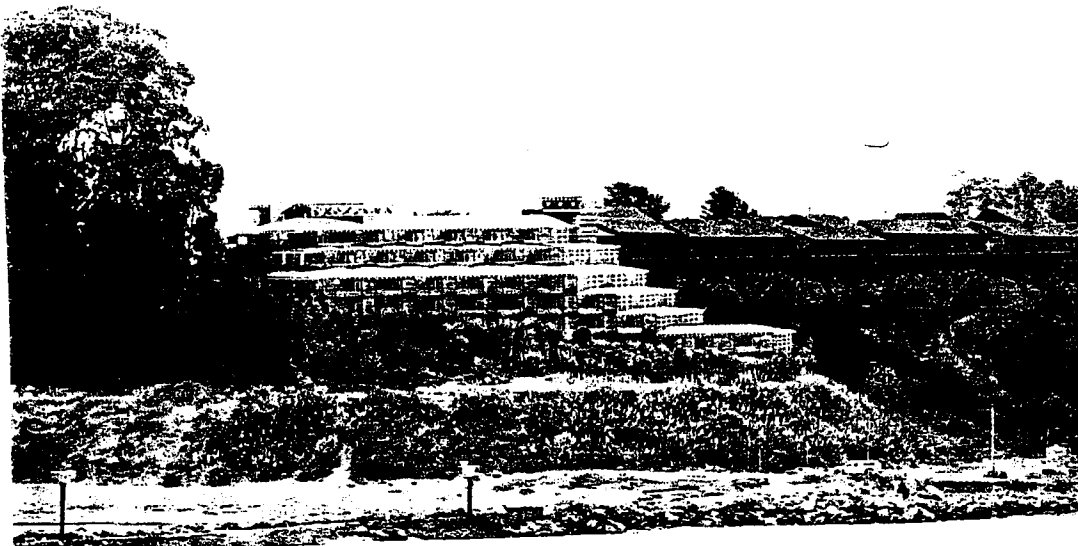
1/8"=1'-0"

NORTH ELEVATION



EAST ELEVATION

1/8"=1'-0"



1992 PLAN



AS BUILT



EXHIBIT NO. 6
 APPLICATION NO.
 A-1-FTB-02-018
 AFFINITO
 COMPARISONS
 (1 of 2)

AS BUILT - NEW COLORS



1992 PLAN



AS BUILT



AS BUILT - NEW COLORS

292



CITY OF FORT BRAGG

Incorporated August 5, 1889
416 N. Franklin St.
Fort Bragg, CA 95437
FAX 707-961-2802

EXHIBIT NO. 7

APPLICATION NO.

A-1-FTB-02-018

AFFINITO

NOTICE OF FINAL
ACTION (1 of 19)

RECEIVED

JUL 30 2002

CALIFORNIA
COASTAL COMMISSION

NOTICE OF FINAL ACTION ON COASTAL DEVELOPMENT PERMIT

On July 22, 2002, final action was taken by the City on the following coastal development permit application:

APPLICATION NO(S): Coastal Development Permit 2-00 (CDP 2-00)
Scenic Corridor Review Permit 2-96/00
Variance 7-00

OWNER/APPLICANT: Dominic & Robert Affinito
400 South Main Street
Fort Bragg, CA 95437

ASSESSOR PARCEL NUMBER: 018-120-19

STREET ADDRESS OF PROJECT: 1005 South Main Street

PROJECT DESCRIPTION: North Cliff Hotel Project: Permits to authorize construction of a 39-room hotel with detached lobby building (21,756 sq. ft. total), 40-space parking lot, emergency access road, exterior lighting, landscaping, and trash enclosure on .82± acre site.

FINAL ACTION BY: Fort Bragg Planning Commission
XX Fort Bragg City Council

DATE OF ACTION: July 22, 2002

ACTION TAKEN: XX Approved (see attached "Permit Status Notification" for findings and conditions)
 Denied (see attached "Permit Status Notification" for findings)

This project is: Not appealable to the Coastal Commission.

XX Appealable to Coastal Commission pursuant to Public Resources Code Section 30603. An aggrieved person may appeal this decision to the Coastal Commission within ten working days of Commission receipt of

this notice. Appeals must be in writing to the appropriate Coastal
Commission District office.

Linda Ruffing

Linda Ruffing
Community Development Director

7.25.02
Date

Attachment: Permit Status Notification

cc: Permit file
Owner/Applicant/Agent
California Coastal Commission



CITY OF FORT BRAGG

Incorporated August 5, 1889
416 N. Franklin St.
Fort Bragg, CA 95437
FAX 707-961-2802

PERMIT STATUS NOTIFICATION

This document provides notification of the decision as indicated below. If you have any questions, please contact the Community Development Department at (707)961-2827.

APPLICATION NO(S):

Coastal Development Permit/ CDP 2-00
Scenic Corridor Review/ SCR 2-96/00
Variance/ VAR 7-00

OWNER/APPLICANT:

Dominic & Robert Affinito
400 South Main Street
Fort Bragg, CA 95437

ASSESSOR PARCEL NUMBER:

018-120-19

STREET ADDRESS OF PROJECT:

1005 South Main Street

PROJECT DESCRIPTION:

North Cliff Hotel Project: Permits to authorize construction of a 39-room hotel with detached lobby building (21,756 sq. ft. total), 40-space parking lot, emergency access road, exterior lighting, landscaping, and trash enclosure on .82± acre site.

DATE OF ACTION: July 22, 2002

ACTION BY:

XX

Fort Bragg Planning Commission
Fort Bragg City Council

ACTION TAKEN:

XX

Approved (see attached Findings and Conditions)
Denied (see attached Findings)

LOCAL APPEAL PROCESS AND FEE SCHEDULE: Decisions of the Planning Commission shall be final unless appealed to the City Council in writing within 10 days thereafter with a filing fee of \$600.00 to be filed with the City Clerk. If you challenge the above case in court, you may be

limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the Community Development Department at, or prior to, the public hearing.

This project is: Not appealable to the Coastal Commission.

XX Appealable to Coastal Commission pursuant to Public Resources Code Section 30603. An aggrieved person may appeal this decision to the Coastal Commission within ten working days of Commission receipt of this notice. Appeals must be in writing to the appropriate Coastal Commission District office.

NOTIFICATION MAILED TO: Dominic & Robert Affinito, Paula Donovan, Richard Lund

DATE OF MAILING: July 26, 2002

cc: Permit File
City Clerk
City Manager
City Attorney
Fort Bragg Fire Department
County Building Inspector

FINDINGS

The City Council finds that, based upon the entire record for the North Cliff Hotel project, including without limitation, all reports, files, agenda statements, testimony at City Council and Planning Commission meetings, the Mitigated Negative Declaration for CDP 2-00; SCR 2-96/00; VAR 7-00, all public documents relating to *Affinito v. Fort Bragg* (Mendocino County Superior Court Case Nos. 80347 and 81770) and the Agenda Item Summary Reports for the March 13, 2002 and December 5, 2001 Planning Commission meetings:

1. The proposed project as conditioned and within the constraints of the January 2000 Order and February 2000 Writ is in conformity with the certified Local Coastal Program including the policies of the LCP Manual, the Land Use Plan and applicable regulations of Title 18 of the Fort Bragg Municipal Code, as identified in the findings below. The project is not located within an environmentally sensitive habitat area and the proposed development would not affect nearby environmentally sensitive habitat areas. The City Council's adoption of this finding is expressly based upon, and would not have been made but for the issuance of the January 2000 Order and February 2000 Writ.
2. The Coastal Development Permit for this project is appealable to the Coastal Commission. The project site is located within an appealable area as defined by the Coastal Act.
3. The proposed project is consistent with the purpose and intent of the Highway Visitor Commercial (HVC) zoning district, as well as other applicable provisions of Title 18 of the Fort Bragg Municipal Code. The proposed use is specifically enumerated as a permitted use in the HVC zoning district.
4. The proposed project, with implementation of the Special Conditions of Approval, based upon Findings 12 through 18 below, is consistent with the intent and purpose of the Scenic Corridor Combining Zone, as defined by Chapter 18.58 of the Fort Bragg Municipal Code, and with the visual resource protection policies of the Coastal Zone Combining Zone, as defined in §18.61.028 of the Fort Bragg Municipal Code. The photomontages provide support for the specific modifications to the project required by the Special Conditions, as further identified in Findings 13 through 18.
5. There is no evidence that the project will have potential for adverse effect on wildlife resources and, therefore, the filing fees required under §711.4 of the Fish & Game Code are not required.
6. The following findings are generally required to support the granting of a variance:
 - a. Because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of Chapters 18.04 through 18.82 deprives the property of privileges enjoyed by other property in the vicinity and under identical zoning classification; and,

- b. The variance granted shall be subject to such conditions as will assure that the adjustments thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated; and,
 - c. A variance shall not be granted for a parcel of property which authorizes a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.
- 7. The City does not have a factual basis to make the above findings for VAR 7-00, authorizing the encroachment of the hotel structure and trash enclosure into the required 15' minimum front yard setback established by FBMC §18.26.040(D). However, the City finds that, based on the January 6, 2000 order and the February 18, 2000 writ of the Superior Court, which prohibit the City from requiring major or structural modifications to the hotel, the City must approve this variance or approve it with conditions which do not involve major modifications to the hotel structure. As a result of the order and writ, the City may not deny the variance and require major or structural modifications to the hotel. However, the City finds that relocating the architectural screen for the trash enclosure to place it outside of the setback, thereby eliminating the need for a variance for the trash enclosure, would require not only modifications to the architectural screen and trash enclosure, but also reconfiguration of the site layout and design, elimination of on-site parking, and modifications to the hotel. The City finds that moving the enclosure laterally is not a major or structural modification, because it only involves modifications to the architectural screen and enclosure which alone are not major or structural features of the hotel.
- 8. Prior to adopting the Mitigated Negative Declaration for the North Cliff Hotel project, the City Council considered the Mitigated Negative Declaration together with all comments received during the public review process. Based on the whole record, including the initial study and comments received, the City Council finds that there is no substantial evidence that the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects the lead agency's independent judgment and analysis, as that judgment is informed by the limitations imposed by the Mendocino County Superior Court order of January 6, 2000 and writ of February 18, 2000.
 - a. The clarifications, modifications and additions that have been made to certain mitigation measures are all minor and do not require recirculation of the Mitigated Negative Declaration (See e.g., CEQA Guidelines 15073.5, 15074.1) Specifically:
 - i. Exterior color: the Negative Declaration as drafted required repainting to a olive green base color with cream trim. The Negative Declaration and Special Condition #1 as approved required a specific olive green base with an identified light green trim. The light green trim is equivalent or more effective than the cream trim because it is more harmonious with the visual setting of the Hotel. The trim without

the green tint is undesirable because it is less harmonious with the visual setting. The revised mitigation measure and condition are as or more effective than the original mitigation measure and condition and will not cause any potentially significant impact on the environment.

ii. Roof material: the Negative Declaration as drafted required the roof to be replaced with Hardislate shingles. The Negative Declaration and Special Condition #3 as approved require the current roof to be replaced or repainted with a grey-brown color or similar "weathered copper" color. The revised mitigation measure and condition are as or more effective than the original mitigation measure and condition in reducing the aesthetic impact of the project because the approved color is very similar to the color of Hardislate shingles.

iii. Architectural Screen: the Negative Declaration as drafted did not require relocation of the architectural screen to shield the trash and utility enclosures. The revised mitigation measure and Condition #6 require relocation of the screen. The new mitigation measure and condition were added in response to comments on the aesthetic impacts already identified in the negative declaration. Members of the public and Planning Commissioners noted that by moving the screen slightly to the south, a view corridor to the ocean on the north side of the Hotel would be re-established. The new mitigation measure is not necessary to mitigate an unavoidable significant impact. The new mitigation measure and Condition #6 are justified and permitted under LCP policies XIV-1 and XIV-3 in order to protect the view corridor to the ocean along the north side of the property.

b. As demonstrated by the Negative Declaration, the above evidence, and the record, the mitigation measures as approved are necessary to reduce the environmental impacts of the project to a level of less than significance.

9. The custodian of the records pertaining to this approval is the Community Development Department of the City of Fort Bragg, which is located at Fort Bragg City Hall, 416 North Franklin Street, Fort Bragg, CA.

10. The Special Conditions of Approval for the project contain specific timeframes for implementation and it shall be the responsibility of the Community Development Department to monitor the project for compliance. This constitutes the Mitigation Monitoring Program.

11. If the Superior Court order and/or writ are overturned on appeal or otherwise invalidated, the City shall not be bound by the order, writ and/or any approvals granted in reliance thereon.

12. The following findings, Findings 13 through 18, are made based upon evidence in the record noted above, and in particular based on the visual analysis provided in

the Mitigated Negative Declaration and the plans and photomontages attached thereto as exhibits.

13. Special Condition #1 which requires the Applicant to repaint the North Cliff Hotel structure to provide an olive branch green exterior with "white mantle" trim is necessary to make the project "visually compatible with the surrounding area" as required by LCP Policy XIV-1 and FBMC §18.61.028 and to mitigate to a level of less than significance the aesthetic impacts of the Hotel identified in the Mitigated Negative Declaration. The olive branch green color is also necessary to ensure that the building colors "are harmonious with neighboring development" as required by FBMC §18.75.040. Repainting the structure will help to blend it with its site, thereby protecting and enhancing views from the bluffs of the Noyo River, as required by LCP Policy XIV-3. From most viewpoints, including Ocean Front Park and the Noyo Bluff Overlook site, the project is viewed against a backdrop of pine and eucalyptus trees. Additional "context" is provided by the pampas grass on the slopes of the dredge spoils site immediately south of the hotel, and the dark brown exterior of the Harbor Lite Lodge to the east. As currently painted, the tan exterior of the North Cliff Hotel structures contrasts greatly with these natural and built features and makes the buildings more visually prominent than they will be when painted olive green with light green trim.
14. Special Condition #2 which requires the Applicant to apply a cultured stone façade to the lower portions of the base of the hotel building on the northeast, south and southeast elevations, as specified in SCR 2-96, is necessary to make the project "visually compatible with the surrounding area" as required by LCP Policy XIV-1 and FBMC §18.61.028, and to mitigate to a level of less than significance the aesthetic impacts of the Hotel identified in the Mitigated Negative Declaration. The cultured stone façade is necessary to ensure that the building is "harmonious with neighboring development" as established in FBMC §18.75.040. At present the south and southeast facades of the structure contrast starkly with the surroundings. The lower portions of these facades, particularly near the southeast corner, have no windows or articulation and the building appears tall and massive from viewpoints to the south. The cultured stone base will help blend the building with the slope below, thereby enhancing its appearance from southerly viewpoints, including views from the "bluffs at the Noyo River" as cited by LCP Policy XIV-3.
15. Special Condition #3, which requires the Applicant to replace or repaint the light blue metal roof with a non-reflective "weathered copper" colored roof, is necessary to make the project "visually compatible with the surrounding area" as required by LCP Policy XIV-1 and FBMC §18.61.028 and to ensure that the building is "harmonious with neighboring development" as required by FBMC §18.75.040(E), and to mitigate to a level of less than significance the aesthetic impacts of the Hotel identified in the Mitigated Negative Declaration. At present, the light blue metal roof is the dominant visual feature of the hotel building. The roof contrasts with the dark green foliage of the surrounding vegetation, sheds glare on sunny days, and detracts from coastal views, including those from the south bluffs of the

Noyo River, as protected in LCP Policy XIV-3. The "weathered copper" colored metal roof will help the structures to blend better with the natural setting and will reduce the glare from the roof.

16. Special Condition #4, which requires the Applicant to provide additional landscaping along the south and east property boundaries to partially screen the structures, is necessary to help soften and break up the views of the structure and to help the project fit better with its coastal setting, and to mitigate to a level of less than significance the aesthetic impacts of the Hotel identified in the Mitigated Negative Declaration. The landscaping will enhance views of the project, consistent with LCP Policies XIV-1 and XIV-3 and FBMC §18.61.028 and FBMC §18.75.040.
17. Special Condition #5, which requires the Applicant to retrofit and/or replace the parking lot light fixtures to reduce the amount of glare and intensity of night-lighting is necessary to achieve consistency with LCP Policies XIV-1 and XIV-3, and to mitigate to a level of less than significance the aesthetic impacts of the Hotel identified in the Mitigated Negative Declaration. The current night lighting is excessively bright and unsightly, and is inconsistent with the Scenic Corridor requirement as established in the LCP and codified in FBMC §18.61.028 and §18.58.030.
18. Special Condition #6, which requires the Applicant to relocate the trash enclosure and architectural screen, is necessary to maintain a view corridor across the site to Noyo Bay, consistent with LCP Policies XIV-1 and XIV-3. The condition does not require a "major or structural modification" as that phrase is used in the above-referenced Order and Writ because: (1) the screen is not connected to any of the hotel buildings; (2) the screen does not support a roof or other structural elements; (3) the screen is akin to a fence and modification of it does not affect any major structural components of the hotel buildings.
19. Special Condition #7, which requires the Applicant to submit a letter of credit, performance bond or certificate of deposit and right of entry is necessary to ensure completion of the required modifications within the timeframes specified in the Special Conditions. Requiring a letter of credit, bond, or other form of security, is a means commonly employed by the City to ensure that improvements required by various permits are completed when temporary occupancy is granted prior to completion of a project.
20. "Final action" as cited in the timelines prescribed in Special Conditions #1 through #7, shall mean either (a) the date of the City Council's final decision on the project if no appeal is filed with the California Coastal Commission or (b) the date of the Coastal Commission's de novo hearing, if a determination of "no substantial issue" is made and the City's coastal development permit action is upheld. If the City's coastal development permit is appealed to the Coastal Commission and the

Coastal Commission finds "substantial issue," then final action shall mean a final decision on the Coastal Development Permit by the Coastal Commission.

SPECIAL CONDITIONS OF APPROVAL

1. The Applicant shall repaint the exterior body of the hotel, lobby building and trash/utility screening structure an olive branch green color shown on the "olive green" color chip, as displayed in "ICI: The Master Palette" 90YY 15/147, as that chip was provided to the City Council. The Applicant shall repaint the exterior trim of the hotel, lobby building and trash/utility screening structure that certain "white mantle" color, as displayed in "ICI The Master Palette" 90YY 75/120, as that chip was provided to the City Council.

Prior to beginning the application of any paint, the Applicant shall present to the Community Development Director the paint which has been purchased for verification that it's color matches the requirements of this Special Condition.

The Applicant shall also provide elevation drawings, photos or artist's renderings of the building elevations which illustrate the proposed colors and indicate which architectural features would be painted with the base color and the trim color. These shall be submitted to the Community Development Director for review and approval within 30 days of final action. The Applicant understands that the Community Development Director is hereby authorized to exercise reasonable professional judgment in the determination of what features are to be painted as trim and what features are to be painted as the body of the structures.

The repainting of the structures shall be completed within 90 days of final action on these permit applications. The Community Development Director may authorize two extensions, not to exceed 30 days each in length, if weather conditions make completion of the exterior painting unachievable within this time frame. The 90-day timeframe shall also be tolled for the period of time between when the paints the Applicant has purchased are submitted to the Community Development Director for verification of consistency with the colors required by this Special Condition and the date of Community Development Director action on the submittal. If final action occurs between September 1 and March 31, the timeframes specified in this Special Condition shall commence on the following April 1.

2. The Applicant shall install the cultured stone façade at the base of the southeast, south and northeast elevations of the hotel building as specified in SCR 2-96 and the approved building permits. As a result of the Applicant's failure to submit actual samples of the cultured stone façade to the Planning Commission or the City Council, the Applicant must submit materials for review and approval of the Community Development Director, prior to installation of the cultured stone façade and within 30 days of final action. The Applicant

understands that the Community Development Director is hereby authorized to exercise reasonable professional judgment in the review and selection of the material for the cultured stone façade because the Applicant did not submit materials for review and acceptance by the Planning Commission or City Council. The Applicant shall apply for building permits and complete the installation of the cultured stone façade within 60 days of final action. The 60-day timeframe shall be tolled for the period of time between when a complete package of documentation and sample façade materials is submitted to the Community Development Director for review and the date of Community Development Director action and for that period of time during which the City is processing the building permit application. If final action occurs between September 1 and March 31, the timeframes specified in this Special Condition shall commence on the following April 1.

3. The Applicant shall repaint the light blue metal roof with a non-reflective paint in that certain "weathered copper" color as shown in BHP Steel Building Products standard DuraTech 5000 colors as submitted to the City Council.

The authority of the Applicant to repaint rather than replace the roof is expressly conditioned upon, prior to the application of any paint, the Applicant providing to the Community Development Director for review and approval, the terms and conditions of a five (5) year warranty for the repainted roof at the North Cliff Hotel. If such a warranty is not provided, consistent with the representations made to the City in the letter to Rick Taillon from Mike Briesse, Conklin Product Specialist, dated June 5, 2002, then the Community Development Director shall inform the Applicant that the light blue metal roof shall be replaced with a metal roof in a non-reflective finish that is similar in hue, chroma and reflectivity to that certain "weathered copper" color as shown in BHP Steel Building Products standard DuraTech 5000 colors as submitted to the City Council. If the roof is repainted, the Applicant shall be required to repair, repaint and maintain the "weathered copper" finish for the life of the project.

The Applicant shall complete the repainting of the roof or apply for building permits and complete the installation of the new roof within 90 days of final action. The 90-day timeframe shall be tolled for that period of time during which the City is processing the building permit application. The Community Development Director may authorize an extension, not to exceed 30 days in length, if weather conditions make completion of the re-roofing unachievable within this time frame. If final action occurs between September 1 and March 31, the timeframes specified in this Special Condition shall commence on the following April 1.

4. Within 30 days of final action, the Applicant shall submit for the review and approval of the Community Development Director revised landscaping plans which have been prepared by a licensed landscape architect. The plans shall provide specifications for additional landscaping consisting of trees and shrubs which are well-suited to the microclimate of the site. The intent of the additional required landscaping is to provide for partial screening of the structure.

Landscaping along the south façade of the hotel building shall consist of evergreen trees which will reach a minimum height of 20' to 25' from the base elevation of the hotel in approximately 5-10 years. A minimum total of 10 trees shall be planted, at a minimum of four locations along the south facade. The trees may be arranged and pruned in the future to maintain significant views from hotel windows. If necessary, the applicant may obtain an easement from the City of Fort Bragg to install and maintain landscaping on the City-owned property which is immediately adjacent to the south boundary of the project site. Landscaping along the Main Street frontage of the site shall include trees which will attain a minimum height of 25' within approximately 5-10 years. These trees shall be spaced a minimum of 20' on center, and shall be interspersed with shrubs which will attain a minimum height of 3-4 feet within 5 years. All trees shall be 24" box stock, and all shrubs shall be a minimum of two-gallon container stock. All landscaping shall be installed within 90 days of final action. Landscaping shall be irrigated with an automatic sprinkler system and shall be maintained and replaced, as necessary, for the life of the project. The Applicant understands that the Community Development Director is hereby authorized to exercise reasonable professional judgment in the review and approval of the landscaping plan because the Applicant did not submit a landscaping plan for review and acceptance by the Planning Commission or City Council.

5. The Applicant shall submit a revised exterior lighting plan for the review and approval of the Community Development Director and shall retrofit and/or replace the parking lot light fixtures to reduce the amount of glare and the intensity of the night-lighting. This may be accomplished by reducing the wattage of the lights, using "warm spectrum" lighting, providing cut-off shields to screen the light source, reducing the height of the light poles, and/or relocating the light fixtures. The revised exterior lighting plan shall include a photometric study prepared by a lighting specialist to ensure that lighting is reduced to levels similar to those at nearby motels. The Applicant understands that the Community Development Director is hereby authorized to exercise reasonable professional judgment in the review and approval of the exterior lighting plan because the Applicant did not submit an exterior lighting plan for review and acceptance by the Planning Commission or City Council. The revised exterior lighting plan shall be submitted to the Community Development Department within 30 days of final action and shall be installed within 90 days of final action.
6. The Applicant shall relocate the trash enclosure to the setback area located immediately south of the PG&E transformer and remove the architectural screen/fence which is located north of the PG&E transformer within 60 days of final action. Within 30 days of final action, the Applicant shall submit a scaled site plan and elevation drawing for the modified architectural screen to the Community Development Director for review and approval, prior to obtaining building permits and performing the work. The 60-day timeframe for completion shall be tolled for the period of time between when a complete package of documentation is submitted to the Community Development

Director for review and approval and for that period of time during which the City is processing the building permit application.

7. Within 15 days of final action, the Applicant shall submit (1) a letter of credit, performance bond or a certificate of deposit and (2) a right of entry in forms acceptable to the City Attorney and the Community Development Director to ensure that all the work required by the above Special Conditions of Approval is completed in a timely manner and to allow access to the property for the completion of such work. The amount of the letter of credit shall be equal to 100% of the City's reasonable estimate of the total cost of completion of all the work. The amount of the letter of credit may be reduced by 50% upon acceptance of more than 50% of all the work as complete by the Community Development Director, Public Works Director, and Senior Building Inspector.
8. Any of the determinations made by the Community Development Director in implementing Special Conditions #1 through #7 may be appealed by the Applicant by filing a notice of appeal. Such notice of appeal shall be filed with the City Clerk within ten (10) days of receiving written notification of the decision of the Community Development Director, and shall include payment of the standard fee then in effect for appeal of administrative decisions to the City Council. The decision of the City Council on appeal shall be based upon the Council's discretion in interpreting the compliance of the Applicant's submission with the language and intent of the findings and conditions at issue. In addition to appeals to the City Council initiated by the Applicant, the Community Development Director may request a City Council decision on any issue that he or she is required to consider in implementing Special Conditions #1 through #7.

STANDARD CONDITIONS OF APPROVAL

1. The use and occupancy of the premises shall be established and maintained in conformance with the requirements of these permits and all applicable provisions of Title 18 of the Fort Bragg Municipal Code.
2. The application, along with supplemental exhibits and related material, shall be considered elements of these permits, and compliance therewith is mandatory, unless an amendment has been approved by the City.
3. These permits shall be subject to the securing of all necessary permits for the proposed development from City, County, State and Federal agencies having jurisdiction. All plans submitted with required permit applications shall be consistent with this approval.
4. The applicant shall secure all required building permits for the proposed project as required by the Building Department.
5. These permits shall be subject to revocation or modification upon a finding of any one (1) or more of the following:
 - i. That such permits were obtained or extended by fraud.

- ii. That one or more of the conditions upon which such permits were granted have been violated.
 - iii. That the use for which the permits were granted is so conducted as to be detrimental to the public health, welfare or safety or as to be a nuisance.
 - iv. 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 conditions.
6. These permits are issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permits described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permits described boundaries are different than that which is legally required by these permits, these permits shall become null and void.

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE

710 E STREET • SUITE 200

EUREKA, CA 95501-1865

PHONE (707) 445-7833

FACSIMILE (707) 445-7877

MAILING ADDRESS:

P. O. BOX 4908

EUREKA, CA 95502-4908

RECEIVED

AUG 13 2002

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENTCALIFORNIA
COASTAL COMMISSIONPlease Review Attached Appeal Information Sheet Prior To Completing
This Form.SECTION I. Appellant(s)

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

Commissioner Mike Reilly

County of Sonoma

575 Administration Drive, Room 100

Santa Rosa, CA 95403-2887

(707) 565-2242

Commissioner John Woolley

Board of Supervisors

825 5th Street

Eureka, CA 95501-1153

(707) 476-2392

SECTION II. Decision Being Appealed1. Name of local/port
government: The City of Fort Bragg2. Brief description of development being
appealed: Construction of a 39-room hotel with detached lobby building (21,756 sq. ft. total),
40-space parking lot, emergency access road, exterior lighting,
landscaping, and trash enclosure on a .82± acre site.3. Development's location (street address, assessor's parcel
no., cross-street, etc.):
1005 South Main Street, Fort Bragg (Mendocino County)
(APN 018-120-19)

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: CDP 2-00

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-FTB-02-018DATE FILED: August 13, 2002DISTRICT: NORTH COASTEXHIBIT NO. 8
APPLICATION NO.
A-1-FTB-02-018
AFFINITO
COMMISSIONERS
APPEAL (1 of 7)

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

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

a. ☐ Planning director/Zoning Administrator c. ☐ Planning Commission

b. ☒ City Council/Board of Supervisors d. ☐ Other _____

6. Date of local government's decision: 7/22/02

7. Local government's file number (if any): CDP #2-00

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

Dominic & Robert Affinito

400 South Main Street

Fort Bragg, CA 95437

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

(1) Sierra Club Mendocino Group, Attn: Ron Guenther

P. O. Box 2330

Fort Bragg, CA 95437

(2) Friends of Fort Bragg, Attn: Roanne Withers

P. O. Box 198

Fort Bragg, CA 95437

(3) _____

(4) _____

SECTION IV. Reasons Supporting This Appeal

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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3


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

See Attachment A

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

SECTION V. Certification

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

Signed: 
Appellant or Agent

Date: August 13, 2002

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 3

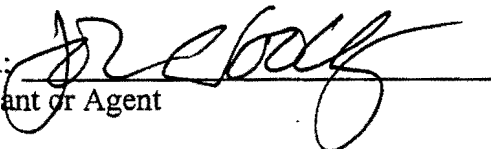
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attachment A

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

SECTION V. Certification

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

Signed: 
Appellant or Agent

Date: August 13, 2002

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

ATTACHMENT A

Reasons for Appeal

The approval of Coastal Development Permit (CDP) Application No. 2-00 by the City of Fort Bragg is inconsistent with the following provisions of the Fort Bragg certified Local Coastal Program (LCP), and raises substantial issues regarding visual resources.

LCP Policies and Standards:

Policy XIV-1—General Policy on Visual Resources states: *"New development within the City's coastal zone shall be sited and designated (sic) to protect views to and along the ocean, be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas."*

Fort Bragg Municipal Code Section 18.26.010—General Purpose and Intent states in applicable part: *"The provisions of this zone are intended to address architectural, site planning and access issues and standards to provide for convenience and to ease traffic congestion and aesthetic impacts on areas along highways [emphasis added]."*

Fort Bragg Municipal Code Section 18.26.040(D)(1)(a)—Development Standards for Minimum Yard Setback Requirements for Buildings states in applicable part: *"Street frontage – Five (5) feet except: 1) fifteen (15) feet on highways [emphasis added]..."*

Fort Bragg Municipal Code Section 18.61.028(B)—Coastal Visual Resources and Special Communities states in applicable part: *"Permitted development within Coastal scenic corridors, where otherwise consistent with the Coastal Land Use Plan, shall, as determined by the approving authority:*

1. *Minimize the alteration of natural landforms;*
2. *Be visually compatible with the character of the surrounding area;*
3. *Be sited and designed to protect views to and along the ocean and scenic coastal areas."*

Discussion

The City of Fort Bragg approved CDP No. 2-00 for construction of the North Cliff Hotel, a 21,756-square-foot, 39-room hotel including a detached lobby, together with a 40-space parking lot, emergency access road, exterior lighting, landscaping, and trash enclosure on an approximately .82-acre site located at 1005 South Main Street, Fort Bragg, Mendocino County. The project is located on visually prominent bluff-top property on the northwest side of the Noyo River, adjacent to the Highway One bridge over the river. The parcel is immediately visible from Highway One, and the approved project places significant new development between the highway and the sea, blocking public views to and along the ocean.

Furthermore, as approved the appearance of the project is incompatible with the visual character of the area.

The approved development is in conflict with Policy XIV-1 of the certified Land Use Plan (LUP), and is inconsistent with provisions of Chapters 18.26 and 18.61 of the certified Fort Bragg Municipal Code (FBMC). LUP Policy XIV-1 requires that new development "...*protect views to and along the ocean,*" and "...*be visually compatible with the character of surrounding areas...*" The applicable portion of Section 18.26.010 of the certified FBMC is intended to address "*aesthetic impacts on areas along highways.*" As shown on the certified Fort Bragg Zoning Map, and as delineated by Section 18.61.028(A)(1), the North Cliff Hotel is located in a Scenic Corridor Combining Zone governed by Section 18.61.028(B)(2) and Section 18.61.028(B)(3) requiring that permitted development within the Coastal Scenic Corridor be "*visually compatible with the character of the surrounding area;*" and be "*sited and designed to protect views to and along the ocean and scenic coastal areas.*" The project as approved conflicts with these visual policies in at least three principal respects. First, the height of the approved structure would block views from the Highway One Noyo River Bridge for people traveling southbound across the bridge. The upper story of the southern wing of the building extends for a significant distance along the west side of the northern end of the bridge, blocking views of the ocean, the mouth of the harbor, and adjoining scenic coastal areas for southbound travelers over that distance. Therefore, the project as approved is inconsistent with the provisions of LUP Policy XIV-1, and FBMC Section 18.61.028(B) requiring that new development be sited and designed to protect views to and along the ocean and scenic coastal areas.

Second, the color approved for painting the building trim is "white mantle," a very light color that is too light and will be out of character with the surrounding environment. The permit approval also allows the use of white vinyl railings. The colors for the trim and railings would contrast significantly with the natural earthtone brown and green colors of the coastal bluffs and background vegetation at the site, and thus the approved development would not be visually compatible with the character of the surrounding area, and would be inconsistent with the provisions of LUP Policy XIV-1, and FBMC Section 18.61.028(B) requiring that new development be visually compatible with the character of the surrounding area. Finally, the approved project is subject to development standards imposing setback requirements for buildings. The City's approval of the permit is inconsistent with certified FBMC Chapter 18.26 for HVC – Highway and Visitor Service Commercial zoned property bordering highways, which requires development to have a minimum of fifteen (15) feet street frontage setback. The City approved the permit with a variance for the development to encroach into the required 15-foot setback without any factual basis for finding the setback reduction would be consistent with provisions of the certified LCP. The reduction in the required setback would place the building closer to the highway resulting in further interference with public coastal views. Because there was no factual reason for the setback reduction, the permit approval is inconsistent with FBMC Section 18.26.040(D)(1)(a).

In summary, the approval of the project would not protect public views to and along the ocean because development would be placed between the highway and the sea, substantially blocking public views, and creating significant adverse aesthetic impacts on areas along Highway One. The approved development

would be visually incompatible with the character of surrounding areas due to a significant contrast of the approved colors for the building's trim and railings with the background environment. Finally, approval of the permit is inconsistent with development standards imposing setback requirements for buildings located along highways, and as a result, contributes to a greater visual impact.

For the reasons as discussed above, the approval of CDP No. 2-00 by the City of Fort Bragg raises a substantial issue of conformance with provisions of the certified LCP regarding protection of visual resources.

STATE OF CALIFORNIA - THE RESOURCES AGENCY

GRAY DAVID, COMMISSIONER

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
710 S STREET, SUITE 200
EUREKA, CA 95601-1865
VOICE (707) 445-7883
FACSIMILE (707) 446-7877

MAILING ADDRESS:
P.O. BOX 4908
EUREKA, CA 95602-4908

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AUG 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 MENDOCINO GROUP - RON GUENTHER
P.O. BOX 2330, FORT BRAGG, CA 95437 (707) 962-0645
- FRIENDS OF FORT BRAGG - ROANNE WITHERS
P.O. 198, FORT BRAGG - CA 95437 (707) 961-1953

Zip

Area Code

Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port
government: CITY OF FORT BRAGG

2. Brief description of development being
appealed: NORTH CLIFF MOTEL CDP 2-00; SCR 2-96/00
VAR 7-00 + NEGATIVE
DECLARATION

3. Development's location (street address, assessor's parcel
no., cross street, etc.): 1005 S. MAIN ST, FORT BRAGG
(Hwy. 1) APN 018-120-19

4. Description of decision being appealed:

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

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: _____

DATE FILED: _____

DISTRICT: _____

H5: 4/88

EXHIBIT NO. 9

APPLICATION NO.
A-1-FTB-02-018
SIERRA CLUB, FRIENDS
OF FORT BRAGG
APPEAL (1 of 3)

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

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

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

6. Date of local government's decision: JULY 23, 2002

7. Local government's file number (if any): CDP 2-00; SCR 2-96/00
VAR 7-00 (NORTH CLIFF MOTEL)

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

DOMINIC +/OR ROBERT AFFINITO
400 S. MAIN ST.
FORT BRAGG, CA 95437

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

- (1) _____

 (2) _____

 (3) _____

 (4) _____

SECTION IV. Reasons Supporting This Appeal

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

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

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

THE NORTH CLIFF MOTEL, AS BUILT, VIOLATES

CITY OF FORT BRAGG'S LCP & COASTAL

DEVELOPMENT RELATED MUNICIPAL CODE FOR

HEIGHT, SETBACK, PARKING, VISUAL (VIEW &

LANDSCAPING), GEOTECHNICAL (EARTHQUAKE), WATER,

DRAINAGE, TRAFFIC IMPACT ON HWY 1.

AN EIR IS NECESSARY.

FURTHER ATTACHMENTS TO FOLLOW BY MAIL

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

SECTION V. Certification

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

Joanne Wilkins, FRIENDS OF FORT BRAGG
[Signature] SIERRA CLUB

Signature of Appellant(s) or
Authorized Agent

Date AUG. 2, 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 _____