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| Appeal No. A-1-02-157 Filed: | November 25, 2002  |
| 49 <sup>th</sup> Day:        | Opened & Continued |
| Appeal No. A-1-02-158 Filed: | December 9, 2002   |
| 49 <sup>th</sup> Day:        | Opened & Continued |
| Staff:                       | Robert Merrill     |
| Staff Report:                | January 23, 2003   |
| Hearing Date:                | February 6, 2003   |
| Commission Action:           |                    |

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

|                                     |  |
|-------------------------------------|--|
| <b>LOCAL GOVERNMENT:</b>            | County of Mendocino  |
| <b>DECISION:</b>                    | Approval with conditions   |
| <b>APPEAL NOS:</b>                  | <b>A-1-MEN-02-157</b><br><b>A-1-MEN-02-158</b>   |
| <b>APPLICANTS:</b>                  | <b>John and Nit Lemley</b>   |
| <b>APPELLANTS:</b>                  | Joan Curry;<br>Hillary Adams   |
| <b>PROJECT LOCATION:</b>            | 11050 Lansing Street, in the Town of Mendocino,<br>Mendocino County (APN: 119-060-26).   |
| <b>ORIGINALLY APPROVED PROJECT:</b> | Remodel and add to an existing 3-bedroom 2,486+-<br>square foot single family residence. The remodel<br>includes a second story addition with a maximum<br>height of approximately 26-feet, six inches above |

grade. The proposed addition would result in a 3-bedroom, 4,851 +-square foot residence:

**COUNTY CDP ACTION**  
**ADDRESSED BY**  
**A-1-MEN-02-157**

Approval of a Coastal Development Permit Amendment to modify previously approved development to rotate the main north-south axis of the house 27 degrees clockwise, change the window configuration to reduce the glass area by approximately 50%, change the style of architecture from a contemporary to an arts and crafts design which includes the use of iron-spot brick wainscot, dark olive-brown cedar siding and shingles and charcoal-colored composition roof shingles.

**COUNTY CDP ACTION**  
**ADDRESSED BY**  
**A-1-MEN-02-158**

Approval of demolition of an existing residence and establishment of the location of the new single family residence to be constructed on the parcel.

**SUBSTANTIVE FILE**  
**DOCUMENTS**

Coastal Commission Dispute Resolution File No. 1-02-1-EDD; Coastal Commission Dispute Resolution File No. 1-02-2-EDD; Mendocino County CDP 67-00 and 67-00(M); and Mendocino County Local Coastal Program.

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**SUMMARY OF STAFF RECOMMENDATION: SUBSTANTIAL ISSUE**

The staff recommends that the Commission, after public hearing, determine that **NO SUBSTANTIAL ISSUE** exists with respect to the grounds on which each appeal has been filed.

The Mendocino County Coastal Permit Administrator granted Coastal Development Permit No. CDP 67-00 on May 24, 2001 to John and Nit Lemley to remodel and add to an existing residence, resulting in a two-story, 26.5 ft high, 3-bedroom, 4,851 sq. ft residence at 11050 Lansing Street, in the Town of Mendocino. The County submitted a notice final local action on the "remodel/addition" that was received in the Coastal Commission North Coast District Office on June 11, 2001. No appeal of this action on

the original approval of the development was received. However, two separate aspects of County approval of development at the site were subsequently appealed.

Appeal No. A-1-MEN-02-157 is an appeal of a decision of the County to grant Coastal Development Permit Amendment No. CDP 67-00(M) to modify the previously granted permit for remodeling and adding on to an existing house on the site to (1) rotate the main north-south axis of the house 27 degrees clockwise, (2) change the window configuration to reduce the glass area by approximately 50%, and (3) change the style of architecture from a contemporary to an arts and crafts design which includes the use of iron-spot brick wainscot, dark olive-brown cedar siding and shingles and charcoal-colored composition roof shingles.

Appeal No. A-1-MEN-02-158 is an appeal of a decision of the County to approve the total demolition of the previously existing residence and establish the location of the new single family residence to be constructed on the parcel.

The appealability of both actions of the County that are the subject of the two appeals was considered by the Commission in Dispute Resolution hearings at the October, 2003 Commission meeting in Eureka.

Appeals of each County action have been filed by both Ms. Joan Curry and Dr. Hillary Adams. Initially, the appellants each submitted an appeal of the decision of the County to grant Coastal Development Permit Amendment No. CDP 67-00(M). These appeals constitute Appeal No. A-1-MEN-02-157. Later, each appellant submitted a letter stating that she wanted her appeal to also be considered as an appeal of the County's action to approve total demolition of the previously existing residence and the establishment of the location of the new home to be constructed on the parcel. These appeals constitute Appeal No. A-1-MEN-02-158.

Together, the two appeals allege that the County's approval of the development is inconsistent with provisions of Mendocino County's certified LCP. Specifically, the appellants allege that (1) the amended development as approved and the approval of the location of the new house is incompatible with the character of its neighborhood which creates visual impacts to public viewing areas, particularly from vantage points at nearby Mendocino Headlands State Park, (2) the County erred in processing the amendment request as an immaterial amendment in a manner inconsistent with the Mendocino Town Plan Zoning Code, (3) the amendment as approved does not conform with the geologic hazard policies of the LCP as no specific geologic report was prepared to address the changes to the project approved by the amendment, (4) the lot coverage of the amended project is larger than the 20% lot coverage standard of the Mendocino Town Zoning Code applicable to the parcel, and (5) the house approved by the amendment is not consistent with the height requirements imposed by the original permit approval for the house.

Staff has determined that two of the appellants' contentions raise invalid grounds for appeal with respect to both of the County actions under appeal. The contention that the permit amendment should not have been processed as an immaterial amendment and the contention that the height of the project as amended is inconsistent with the height limitations of the original permit do not raise issues concerning the conformance of the project as approved with the certified policies of the LCP or the public access policies of the Coastal Act. Instead, the first contention raises concerns about the process leading up to approval, rather than the approved amendment itself. The second contention does not raise a specific inconsistency of the amendment as approved with a policy of the certified LCP or with the public access policies of the Coastal Act.

Staff believes that the other three contentions raise valid grounds for appeal with respect to both of the County actions under appeal., but do not raise substantial issues. Staff recommends that the Commission find that each appeal raises no substantial issue of consistency with the certified LCP and the public access policies of the Coastal Act.

**The Motions to adopt the Staff Recommendation of Substantial Issue for each appeal are found on Page 6.**

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STAFF NOTES:

1. Appeal Process.

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

Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea, or within three hundred feet of the inland extent of any beach, or of the mean high tide line of the sea where there is no beach, or within one hundred feet of any wetland or stream, or within three hundred feet of the top of the seaward face of any coastal bluff, or those located in a designated sensitive coastal resource areas.

Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments that constitute 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 County Coastal Development Permit actions are appealable to the Commission because the proposed development is located: (1) between the sea and the first public road paralleling the sea, (2) within 300 feet of the mean high tide line, (3) within 300 feet of the top of the seaward face of a coastal bluff; and (4) in a sensitive coastal resource area. Section 20.308.110(6) of the Mendocino County Zoning Ordinance defines sensitive coastal resource areas as including special communities and Land Use Plan (LUP) Policy 3.5-2 designates the Town of Mendocino as a special community.

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. In each case, 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 either 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 applicants, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing.

2. Filing of Appeals for A-1-MEN-02-157 (Permit Amendment)

Both appellants filed an appeal (Exhibit Nos. 10 and 11) to the Commission in a timely manner on November 25, 2002, on the first day of the appeal period.

3. Filing of Appeals for A-1-MEN-02-158 (Demolition and Siting of New Home)

Both appellants filed an appeal (Exhibit Nos. 10 and 11) to the Commission in a timely manner on December 9, 2002.

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I. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE FOR APPEAL NO. A-1-MEN-02-157 (PERMIT AMENDMENT).

Pursuant to Section 30603(b) of the Coastal Act and as discussed below, the staff recommends that the Commission determine that no substantial issue exists with respect

to the grounds on which the appeal of Mendocino County's action to approve CDP Amendment No. CDP 67-00(M) has been filed. The proper motion is:

**MOTION:**

I move that the Commission determine that Appeal No. A-1-MEN-02-157 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 of No Substantial Issue :**

Staff recommends a YES vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

**Resolution to Find Substantial Issue:**

The Commission finds that Appeal No. A-1-MEN-02-157 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

**II. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE FOR APPEAL NO. A-1-MEN-02-158 (DEMOLITION AND SITING OF NEW HOME)**

Pursuant to Section 30603(b) of the Coastal Act and as discussed below, the staff recommends that the Commission determine that no substantial issue exists with respect to the grounds on which the appeal of Mendocino County's action to approve demolition of the existing house and siting the new home on the site has been filed. The proper motion is:

**MOTION:**

I move that the Commission determine that Appeal No. A-1-MEN-02-158 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 of No Substantial Issue :**

Staff recommends a YES vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the

Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

**Resolution to Find Substantial Issue:**

The Commission finds that Appeal No. A-1-MEN-02-158 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

**III. FINDINGS AND DECLARATIONS.**

The Commission hereby finds and declares:

**A. LOCAL GOVERNMENT ACTION AND ESTABLISHMENT OF APPEAL PERIOD**

**1. County Action on Original Permit with No Appeal to Commission**

The Mendocino County Coastal Permit Administrator granted Coastal Development Permit No. CDP 67-00 on May 24, 2001 to John and Nit Lemley to remodel and add to an existing residence, resulting in a two-story, 26.5 ft high, 3-bedroom, 4,851 sq. ft residence at 11050 Lansing Street, in the Town of Mendocino. The Mendocino Historical Review Board (MHRB) had previously granted approval of the project.

The Coastal Permit Administrator attached four special conditions to the coastal development permit. Special Condition No. 1 requires all recommendations from the geological report prepared by BACE Geotechnical dated January 23, 2001 to be incorporated in the design and construction of the project, and required the geotechnical consultant's review of final plans for conformance with the recommendations and on-site inspection of the excavation of structure foundations and installation of the drilled piers.

Special Condition No. 2 requires the recordation of a deed restriction providing that the landowner shall not construct any bluff or shoreline protective devices to protect the development in the event that the development is subject to damage or erosional hazards in the future, remove the development when bluff retreat threatens the structure, and bear all costs for removal of any recoverable debris associated with the development that falls to the beach and ocean. The deed restriction also must provide that the landowner assumes the risk of geologic hazards associated developing the project on the subject site, indemnifies the County against any liability arising out of the development of the project, and agrees that any adverse impacts to the property caused by the project are fully the responsibility of the applicant.

Special Condition No. 3 requires the permittees to install the landscaping identified in a landscape plan considered at the local hearing to ensure that a vegetative screen is established and maintained in perpetuity and that all future tree removal be subject to authorization from the County.

Finally, Special Conditions No. 4 requires that all exterior building materials and finishes match those specified in the coastal development permit application, windows be made of non-reflective glass, and that any change in approved colors or materials are subject to the review and approval of the Coastal Permit Administrator for the life of the project.

The decision of the Coastal Permit Administrator on the original permit was not appealed at the local level to the Board of Supervisors. The County then issued a notice of final local action on the "remodel/addition" indicating the project was appealable was received in the California Coastal Commission North Coast District Office on June 11, 2001. The appeal period on the original permit approval was opened after receipt by the Commission of the Notice of Final Local Action and no appeal was received.

## **2. County Action on Permit Amendment**

In 2002, the applicants applied to the County for MHRB approval and a coastal development permit amendment to modify development approved under CDP 67-00 to (1) rotate the main north-south axis of the house 27 degrees clockwise, (2) change the window configuration to reduce the glass area by approximately 50%, and (3) change the style of architecture from a "contemporary" to an "arts and crafts" design which includes the use of iron-spot brick wainscot, dark olive-brown cedar siding and shingles and charcoal-colored composition roof shingles. After the MHRB approved the project, the Mendocino County Planning Director approved an "immaterial" amendment for this modification of the original permit on March 14, 2002. The immaterial amendment contains no additional special conditions but notes that all conditions of the original permit remain in effect. The County did not submit a notice of final local action on the coastal development permit amendment meeting the requirements of Section 13571 of the Commission's regulations and Section 20.720.045 of the Mendocino Town Zoning Code to the Commission's offices.

## **3. Dispute Over Appealability of Amendment and Appeal Jurisdiction Over Total Demolition of Existing Structure and Siting of Approved New House.**

Within a few weeks after issuance of the "immaterial" amendment, the Commission staff received several phone calls from concerned citizens objecting to the County's issuance of the "immaterial" amendment and inquiring as to whether the County's action approving the "immaterial" amendment was appealable to the Commission. Commission staff reviewed the question of whether the County's action approving the "immaterial" amendment was appealable to the Commission with County staff. County Staff indicated



that based on the certified Coastal Zoning Code, the County determined that the "immaterial" amendment was not appealable to the Commission and that no Notice of Final Local Action on the approval of the "immaterial" amendment need be filed with the Commission. After reviewing the applicable provisions of the Mendocino Town Zoning Code, the Commission staff informed the County staff by letter dated May 15, 2002 that (1) the Executive Director disputed the County's determination that the County's action was not appealable to the Commission, (2) a valid notice of final local action indicating the County's action is appealable must be submitted to the Commission, and (3) the permit amendment would not be effective until a valid notice were received and the appeal process had been completed.

On June 6, 2002, the North Coast District Office of the Commission staff received an appeal of the "immaterial" amendment from Hillary Adams. (See Exhibit 11.) A separate appeal of the "immaterial" amendment was received from Joan Curry. (See Exhibit 10.) As no notice of final local action meeting the requirements of Section 13571 of the Commission's regulations and Section 20.720.045 of the Mendocino Town Zoning Code had ever been submitted by the County, no appeal period for the amendment had been opened and the appeals were not deemed filed. However, the appeals raised a number of concerns, including objections to both the processing of the "immaterial" amendment and a County staff determination that the original permit approved for the project authorized complete demolition of the existing single-family residence even though the coastal development permit application, hearing and local action notices and staff report did not indicate the existing structure would be completely demolished. These documents referred instead, to "remodeling and addition to" the existing structure. The appellants indicate that as the hearing and action notices and staff reports did not reference the total demolition of the existing residence, they were denied an opportunity to comment to the County during its consideration of the coastal development permit on the impacts of demolition and if complete demolition were to be approved, the possibilities of resiting the new residence to another location on the lot where impacts to coastal resources could be further reduced from those that would result from building on the same site as the existing residence. The authorization granted by the County in the "immaterial" amendment to rotate the orientation of the new structure by 27 degrees is dependent on demolition of the entire original structure. Commission staff reviewed the staff report for the original project and the notice of final local action that had been submitted for the approval of the original coastal development permit and determined that neither document references the complete demolition of the existing structure. If the County did authorize the complete demolition of the existing structure in the original permit, the notice of final action did not describe this basic aspect of the approved development in a manner that would enable interested parties that would be concerned about the demolition of the entire structure or the potential to require relocation of the new residence to raise such issues on appeal. Section 13571 of the Commission's regulations and Section 20.720.045 of the Mendocino Town Zoning Code require that a notice of final local action must include a project description of the approved project to be sufficient.

Section 13572 of the Commission's regulations and Section 20.720.045 of the Mendocino Town Zoning Code state that a local government's decision on an application for appealable development is not effective if the notice of final local action does not meet the requirements of Section 13571 and Section 20.720.045 of the Mendocino Town Zoning Code. Based on the omission of reference to authorization for the complete demolition of the structure in the notice of final local action, the Executive Director determined that the notice of final local action for the originally approved project submitted on June 11, 2001 was insufficient because it did not indicate that the County had approved a demolition. Commission staff also indicated to County staff that consistent with Section 13572 of the Commission's regulations and Section 20.720.045 of the Mendocino Town Zoning Code, any County action approving a demolition is not effective until after the Commission receives a valid notice of final local action and the 10 working day appeal period to the Commission has expired. The County staff disputed this interpretation and indicated to Commission staff that they did not intend to submit a new notice of final action which identifies complete demolition as part of the development authorized by the County.

**4. Commission Hearings and Determination of Appeal Jurisdiction and Applicable Hearing and Notice Provisions**

After certification of a Local Coastal Program (LCP), the Commission is authorized, under Section 13569 of the Commission's regulations as well as Section 20.720.030 of the Mendocino Town Zoning Code, to resolve disputes concerning a local government's processing of a development application for coastal development permits (i.e., to determine whether the development is categorically excluded, non-appealable, or appealable). Under the terms of Section 13569 as well as Section 20.720.030 of the Mendocino Town Zoning Code, when the local jurisdiction does not agree with the Executive Director's determination regarding the appropriate permitting status of a particular proposal, the Commission is required to hold a hearing and make a determination. The Commission meeting in Eureka on October 8-10, 2002 was the first meeting in the same geographic region of the State as the project since the County informed Commission staff that they disagreed with the Executive Director's determinations that (1) the County's action on the "immaterial" amendment was appealable to the Commission, and (2) the notice of final local action which failed to reference the approval of a total demolition as part of the original project in 2001 is invalid. Therefore, the Commission scheduled dispute resolution hearings on each determination for the Eureka meeting.

At the October 9, 2002, Commission meeting, the Commission held public hearings and made determinations with respect to both disputed matters. By a unanimous vote, the Commission upheld the Executive Director's determinations that the County's approval of the immaterial amendment of CDP 67-00 (CDP Amendment 67-00(M) granted to John and Nit Lemley constitutes an action on a coastal development permit appealable to the

Commission, and that a valid notice of final local action for this action the coastal development permit for appealable development must be submitted and an appeal period opened. In addition, the Commission unanimously determined that the notice of final local action submitted by the County for any total demolition purportedly authorized by approval of the CDP 67-00 was invalid and a new notice final local action that includes reference to the complete demolition of the original structure and siting of the new home on the parcel must be submitted so that an appeal period could be opened for this appealable development as well.

**5. Establishment of Appeal Period**

In an October 21, 2002 letter transmitting these results of the Commission's Dispute Resolution hearings on the matter to the County and the applicants (see Exhibit 8), the Executive Director requested that the County submit within 30 days of receipt of the letter valid notices of final local actions for the permit amendment and for the complete demolition of the original structure. The letter indicated that if within 30 days of receipt of the letter the County failed to issued the requested valid notices of final local action, the Executive Director would consider such failure as Final Notice of County Action and would initiate the coastal development permit appeal process.

The County never submitted the requested Final Notices of County Action. Therefore, after 30 days had passed since the County received the Commission staff letter of October 21, 2002, Commission staff sent notice to the County and applicants that appeal periods had opened on both the County's approval of CDP Amendment 67-00(M) and the County's approval of the total demolition of the existing house and the establishment of the location of the approved new single family residence (see Exhibit 9). Both appeal periods began on November 25, 2002, 31 days after County staff indicated they had received the staff's October 21, 2002 letter informing the County of the Commission's action and requesting the submittal of Notices of Final Local Action. Both appeal periods closed on December 10, 2002.

**6. Filing of Appeals**

Appeals of the County's approval of CDP Amendment 67-00(M) were submitted by Dr. Hillary Adams and Ms. Joan Curry prior to the October 9, 2002 Commission determinations that the amendment was appealable and consequently, before the appeal period was opened. Thus, the appeals on the permit amendment are considered to have been filed as of the first day of the appeal period, November 25, 2002. After the appeal period was opened on the separate matter of the County's approval of the total demolition of the existing house and the siting of the new structure on the property, both Dr. Adams and Ms. Curry submitted letters indicating that they wished to have their appeals of the permit amendment to also be considered as appeals of the County's approval of the total demolition of the existing house and the siting of the new structure on the property. These letters from the two appellants were received on December 9. Therefore, the two

appeals of the demolition and resiting of the house are considered to have been filed as of that date.

**B. APPELLANT'S CONTENTIONS**

The Commission received two separate appeals from Ms. Joan Curry and Dr. Hillary Adams of the County's decision to approve the permit amendment permit authorizing (1) rotation of the main north-south axis of the house 27 degrees clockwise, (2) changing the window configuration to reduce the glass area by approximately 50%, and (3) changing the style of architecture from a "contemporary" to an "arts and crafts" design which includes the use of iron-spot brick wainscot, dark olive-brown cedar siding and shingles and charcoal-colored composition roof shingles. The.

Both appeals were received prior to the opening of the appeal period and thus were considered to be filed as of the first day of the appeal period, November 25, 2002.

On December 9, 2002, each appellant submitted letters to the Commission staff indicating that her previously submitted appeal of the County's decision to approve the permit amendment should also be considered as an appeal of the County's decision to approve the total demolition of the previously existing residence and the siting of the new house on the parcel. Neither appellant raised any additional contentions in these letters regarding the conformance of the approved demolition and siting of the new house with the policies of the certified LCP or the public access policies of the Coastal Act.

The appellants' contentions are summarized below, and the full text of each appeal is included as Exhibit Nos. 10 and 11. Together, the two appellants raise five specific contentions alleging inconsistencies of the development as approved with the policies and standards of the certified Local Coastal Program. The appellants allege that (1) the development as approved is incompatible with the character of its neighborhood which creates visual impacts to public viewing areas, particularly from vantage points at nearby Mendocino Headlands State Park, (2) the County erred in processing the amendment request as an immaterial amendment in a manner inconsistent with the Mendocino Town Plan Zoning Code, (3) the amendment as approved does not conform with the geologic hazard policies of the LCP as no specific geologic report was prepared to address the changes to the project approved by the amendment, (4) the lot coverage of the amended project is larger than the 20% lot coverage standard of the Mendocino Town Zoning Code applicable to the parcel, and (5) the house approved by the amendment is not consistent with the height requirements imposed by the original permit approval for the house and is inconsistent with the Coastal Zoning Code.

**1. Incompatible With Visual Character of Surrounding Setting**

Both appellants contend that the amended development as approved is inconsistent with the visual resource policies of the LCP including Land Use Plan policies 3.5-1, 3.5-3, 3.5-4, Mendocino Town Plan Zoning Code Section 20.644, and Mendocino County Coastal Zoning Code Sections 20.504.015(C)(2). The appellants contend that the amended development as approved is incompatible with the character of its neighborhood, which Appellant Adams characterizes as one-story modest homes with shingle siding built in the 1950s. The incompatibility of the design creates visual impacts to public viewing areas, especially from vantagepoints at nearby Mendocino Headlands State Park. Specific aspects of the amended development cited by Appellant Adams B that make the amended development incompatible with the character of its neighborhood include (1) the two-story design; (2) the comparatively large size and bulk of the approved house; (3) the huge brick wainscot around the perimeter of the structure, (4) its lighthouse cupola and its architectural copper flues which could remain shiny and reflective for many years; (5) the red and green colors of the amended house design, (6) the gate across the driveway of the residence; (7) the lanterns on brick piers along the driveway; and (8) the number of exterior light fixtures and the light these light fixtures would cast at night. Appellant Adams notes that if the house were set further back from the edge of the bluff, there would be room behind the geologic setback to plant landscaping to mitigate the visual impact of the development on Mendocino Headlands State Park and its coastal trails.

## 2. Processing as Immaterial Amendment

Both appellants contend that the County erred in processing the amendment request as an immaterial amendment in a manner inconsistent with Mendocino Town Plan Zoning Code Sections 20.720.040, 20.720.045, and 20.720.055. The appellants contend that the changes in the development raise issues of consistency with the certified LCP policies and thus the amendment should not have been considered immaterial. Appellant Adams contends that the new house will be a much heavier building than the originally approved house and as the geotechnical report prepared for the project was specific to the original design, questions are raised concerning conformance of the permit as amended with the hazard policies of the certified LCP that necessitate processing a new coastal development permit for changes to the project with a full public hearing instead of as an immaterial amendment approved administratively by the Coastal Permit Administrator. In addition, Appellant Adams contends that a number of changes in the design of the house through the permit amendment raise questions of conformance of the permit as amended with the visual resource policies of the LCP that should have triggered the need for processing a new coastal development permit, particular policies requiring new development to be compatible with the character of the surrounding neighborhood and requiring new development to protect views from public roads, coastal trails, and parks. Such design changes noted by Appellant Adams include the complete change of architectural style; the change in the orientation of the house and the garage; the change of building materials from cedar shingle to a combination of lap siding, shingle, and brick; the change in building material colors from dark grays to balsom forest and

driftwood colors with olive tinge and red brick; the addition of a long walkway covered by a trellis, changes deck design, changed lighting plan and fixtures, additional landscaping, and the addition of a fence along the south side of the house. Appellant Curry also contends that totally new design and the change in orientation of the structure by 27 degrees approved through the immaterial amendment raise questions of conformance of the permit as amended with the visual resource policies of the LCP that should have triggered the need for processing a new coastal development permit. Furthermore, the appellants contend that the County did not follow the immaterial amendment procedures set forth in the Mendocino Town Zoning Code that provide for immaterial amendments to be scheduled for a public hearing if objections are submitted. The appellants claim that they and other members of the public had submitted letters to the County within 10 days of the County's decision to process the amendment as an immaterial amendment objecting to the procedure, but the County did not schedule a hearing, inconsistent with the amendment procedures of the Town Zoning Code.

**3. Conformance With Geologic Hazard Policies**

Both appellants question the conformance of the amendment as approved with the geologic hazard policies of the LCP. A geotechnical report was prepared in 2001 for the permit application for the original project, but no new geotechnical report was prepared for the permit amendment request. Appellant Adams, contends that in order for the amended development to be found consistent with Coastal Zoning Code Sections 20.500.020 and 20.532.070, a new geotechnical report should have been prepared for the amended development because the geotechnical report is specific to the original plan and orientation and the amended development results in a different house than was originally approved. The appellant notes that landslides have affected the bluff face on the property and notes that the new house may be a much heavier building with the increased use of brick over the original design for façade areas and chimneys, and will have a different orientation. The appellant implies that these changes may affect geologic stability, inconsistent with the Coastal Zoning Code.

**4. Lot Coverage**

Appellant Adams contends that the lot coverage of the amended project is larger than the 20% lot coverage standard of the Mendocino Town Zoning Code for parcels less than two acres in size in the Mendocino Rural Residential (MRR) District specified in Mendocino Town Plan Zoning Code Section 120.644.052. The appellant contends that neither the area of the driveway nor the new brick piers topped by lights on either side of the driveway appeared in the lot coverage calculations.

**5. Height**

Appellant Adams contends that the house approved by the amendment is not consistent with the height requirements imposed by the original permit approval for the house (Mendocino County CDP 67-00). The appellant asserts that since the new design was approved as an amendment to the original permit, the new design must meet the height requirement of the original permit. The appellant states that the project permitted under the original permit had a maximum height allowance of 26 feet, six inches but that the height of the "lighthouse" portion of the new house design approved under the amendment is nearly 28 feet as scaled off of the blueprints, and the height of the approved copper flues approved under the amendment scales to close to 29 feet.

**C. SITE DESCRIPTION:**

The approximately half-acre (23,670 square feet) Lemley parcel (APN 119-060-26) is a blufftop parcel located at 11050 Lansing Street, approximately 300 feet north of its intersection with Heeser Drive, within the Town of Mendocino (see Exhibits 1 and 2). The property near the north end of the Town and near the northeast end of Mendocino Headlands State Park, which extends westerly and then southerly and easterly around the large headland upon which the historic district of the Town is built. The neighborhood contains many homes built in the mid-1900s that are not considered historic and more recent development.

The parcel is zoned and designated Rural Residential. Until recently, the parcel had been developed with a single-story 2,486 square-foot single family residence located on the northern half of the parcel, approximately 14 feet back from the boundary of the parcel facing Lansing Street, and at its closest point approximately 17 feet back from the bluff edge (see Exhibit 3). The house was demolished within the last several months. The new house approved by the County and the subject of this appeal is currently under construction.

The parcel is not located within a designated "highly scenic area" but is located within the Town of Mendocino, designated a special community in the certified LCP. Some view of the ocean is afforded across the property from Lansing Street, but much of the view is blocked by existing trees on the site and development. Views of the site and its surroundings to the east are afforded from various trails and other vantage points within Mendocino Headlands State Park. There are no known rare or endangered plant or animal species located on the site and there are no environmentally sensitive habitat areas located within 100 feet of the proposed development.

**D PROJECT DESCRIPTION:**

Development Authorized by Original Permit

Mendocino County Coastal Development Permit No. 67-00 was granted for the original development by the Mendocino County Coastal Permit Administrator on May 24, 2001. CDP#67-00 authorized the remodeling and addition to the previously existing residence on the parcel (see Exhibit 3). The existing single-story 2,486-square-foot single family residence was authorized to be remodeled and added onto to create a two-story, 4,851-square-foot residence with a maximum height not to exceed 26-1/2 feet above grade. The County staff report for the original permit states that "some demolition of the existing residence would be required to accomplish the proposed project." Some of the approved demolition included demolition of portions of an existing bedroom that extended to within approximately 17 feet of the bluff edge. As approved, the closest portion of the remodeled house was 25 feet from the bluff edge. The approved addition involved enlarging the existing attached garage, adding a master bedroom and bathroom upstairs over an existing bedroom, adding a new study/library on the main floor, enlarging an existing two-car attached garage, removing and adding new wood decking, relocating and remodeling the kitchen, adding a pantry/storeroom and half bathroom, relocating and existing water tank, and adding a propane tank behind a lattice screen, relocating the hot tub, installing shielded and down-cast exterior lighting, connecting all roof drains and yard drains to the existing closed pipe to the bottom of the bluff. The approved exterior colors and materials were to include cedar shingle siding with clear cedar trim, finished with gray driftwood stain, charcoal gray composition shingles roofing, and dark bronze anodized aluminum dual pane clear non-reflective glass windows. The site plan and elevations for the approved development are shown in Exhibit 4 of this report. The County's conditions for approval are contained in Exhibit 5.

Development Authorized by CDP Amendment 67-00(M).

The Coastal Development Permit Amendment that is the subject of Appeal No. A-1-MEN-02-157 is shown in Exhibit 6 of this report. The modifications approved by the Coastal Permit Administrator on March 14, 2002, as part of CDP Amendment 67-00(M) include: (1) rotating the main north-south axis of the house 27 degrees clockwise, (2) changing the window configuration to reduce the glass area by approximately 50%, and (3) changing the style of architecture from a "contemporary" to an "arts and crafts" design which includes the use of iron-spot brick wainscot, dark olive-brown cedar siding and shingles and charcoal-colored composition roof shingles. The plans for the modified house are shown in Exhibit 6.

Development Authorized by County Action Subject to Appeal No. A-1-MEN-02-158.

Appeal No. A-1-MEN-02-158 is an appeal of a decision of the County to approve the total demolition of the previously existing residence and establish the location of the new single family residence to be constructed on the parcel. The location of the new residence is in the same basic location of the previously existing residence at the north end of the property, except that the new residence is located further back from the bluff



edge. The new residence is approved to be no closer than 25 feet from the bluff edge rather than 17 feet. The configuration of the building footprint is also different for the new house (see Exhibit 4, 1 of 6).

**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.”

**1. Appellant’s Contentions that are Valid Grounds for Appeal**

Three of the contentions raised in the appeal filed during the appeal period present potentially valid grounds for appeal in that they allege the project’s inconsistency with policies of the certified LCP or with the public access policies of the Coastal Act.

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." (California Code of Regulations, Title 14, Section 13115(b).) In previous decisions on appeals, the Commission has been guided by the following factors:

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

5. Whether the appeal raises only local issues, or those of regional or statewide significance.

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

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that with respect to the appellant's allegations related to: (1) the amended development as approved being incompatible with the character of its neighborhood which creates visual impacts to public viewing areas, (2) the lack of a geologic report specific to the amendment as approved, and (3) the lot coverage of the amended project, no substantial issue exists with regard to the approved project's conformance with the certified Mendocino County LCP.

**Allegations Raising No Substantial Issue:**

a. **Incompatible With Visual Character of Surrounding Setting**

The appellants allege that the amended development as approved is incompatible with the character of its neighborhood which creates visual impacts to public viewing areas, particularly from vantage points at nearby Mendocino Headlands State Park.

**LCP Policies:**

LUP Policy 3.5-1 states in applicable part:

*The scenic and visual qualities of Mendocino county coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas designated by the County of Mendocino Coastal Element shall be subordinate to the character of its setting.*

LUP Policy 3.5-2 states in applicable part:

*The Town of Mendocino is designated as a "special community." Development in the Mendocino Town shall maintain and enhance community character, as defined in the Mendocino Town Plan.*

LUP Policy 3.5-3 states in applicable part:

*The visual resource areas listed below are those which have been identified on the land use maps and shall be designated as 'highly scenic areas,' within which new development shall be subordinate to the character of its setting. Any development permitted in these areas shall provide for the protection of ocean and coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes.*

*Portions of the coastal zone within the Highly Scenic Area west of Highway 1 between the Ten Mile River estuary south to Navarro River as mapped with noted exceptions and inclusions of certain areas east of Highway 1...*

*In addition to other visual policy requirements, new development west of Highway One in designated 'highly scenic areas' is limited to one story (above natural grade) unless an increase in height would affect public views to the ocean or be out of character with surrounding structures... New development should be with visual resource policies and shall not be allowed if new development should be subordinate to natural setting and minimize reflective surfaces...*

LUP Policy 3.5-4 states in applicable part:

*Buildings and building groups that must be sited within the highly scenic area shall be sited near the toe of a slope, below rather than on a ridge, or in or near the edge of a wooded area. Except for farm buildings, development in the middle of large open areas shall be avoided if an alternative site exists.*

...

*Minimize visual impacts of development on terraces by (1) avoiding development in large open areas if alternative site exists; (2) minimize the number of structures and cluster them near existing vegetation, natural landforms or artificial berms; (3) provide bluff setbacks for development adjacent to or near public areas along the shoreline; (4) design development to be in scale with rural character of the area.*

LUP Policy 3.5-5 states in applicable part:

*Providing that trees will not block coastal views from public areas such as roads, parks and trails, tree planting to screen buildings shall be encouraged....*

LUP Policy 4.13-9 states:

*Design review guidelines shall set criteria which will be utilized to ensure preservation, protection, enhancement, rehabilitation, reconstruction and perpetuation of existing structures of historic significance in a manner consistent with the character of the Town.*

*New buildings, rehabilitations and renovations to existing structures will be consistent with the character of the town and they shall not degrade the setting of buildings of landmark stature (as described in the Inventory of Historic Building, Appendix, Historic Structures). Regulations shall be consistent with the historic ordinance and guidelines as accepted by the County Board of Supervisors. Such criteria shall include, but not be limited to architectural design, size, height, dormers, windows, structures, appurtenances, proportion and placement of improvements on the parcel, and landscaping, including planting or removal of vegetation, must be reviewed in the application process.*

LUP Policy 4.13-13 states:

*In addition to any design review related to protection of the character of the Town, all development shall conform to Section 30251 of the Coastal Act, and any specifically designated scenic and view areas as adopted on the map. Provisions of open space and siting of structures to retain public views shall be considered as part of all new development proposals.*

*(Note: Section 30251 of the Coastal Act states in applicable part: The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...)*

Coastal Zoning Code Section 20.504.015 states, in applicable part:

*(A) The visual resource areas listed below are those which have been designated highly scenic and in which development shall be subordinate to the character of its setting:*

*Portions of the coastal zone within the Highly Scenic Area west of Highway 1 between the Ten Mile River estuary south to Navarro*

*River as mapped with noted exceptions and inclusions of certain areas east of Highway 1...*

*(C) Development Criteria.*

- (1) Any development permitted in highly scenic areas shall provide for the protection of coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes...*
- (2) In highly scenic areas west of Highway 1 as identified on the Coastal Element land use plan maps, new development shall be limited to eighteen (18) feet above natural grade, unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures.*
- (3) New development shall be subordinate to the natural setting and minimize reflective surfaces. In highly scenic areas, building materials shall be selected to blend in hue and brightness with their surroundings...*
- (5) Buildings and building groups that must be sited in highly scenic areas shall be sited: (a) Near the toe of a slope; (b) Below rather than on a ridge; and (c) In or near a wooded area.*

Mendocino Town Zoning Code Section 20.644.040, "Maximum Building Heights Limit for MRR Districts," states:

*Structures shall be limited to two (2) stories and at no point on a parcel shall the building height exceed twenty-eight (28) feet. Exceptions to the strict application of maximum building heights may be allowed for church steeples, flag poles, water towers and utility poles where such exceptions are consistent with the intent of the zoning District and with Chapter 20.760. Lesser heights may be required where it is found that building heights would have adverse impacts to community character, historic structures, open space or public views. Exceptions may only be allowed pursuant to the provisions of Chapter 20.724 or Chapter 20.760.*

Applicable excerpts from **Chapter 20.76, of the Mendocino Town Zoning Code**, entitled, "**Historical Preservation District for the Town Of Mendocino**," include the following:

Mendocino Town Zoning Code Section 20.760.005, "Purpose," states in applicable part:

*The Board of Supervisors of the County of Mendocino find and declare that the Town of Mendocino and its immediate environs represents a unique and outstanding example of early California architecture and town development associated with the redwood lumber industry along the Mendocino Coast in the last half of the 19<sup>th</sup> century. The Town of Mendocino exhibits those qualities typical of a small Northern California coastal lumber town from that era by combining a balance of residential and commercial development with the forces of nature and the natural environment.*

*This Board further finds that such of the unique character of this community rests with the style of architecture which dominates the town and which is representative of early northern California architecture, to the extent that it has achieved recognition by being placed on the National Register of Historic Places. This character is reflected by the Town's distinctive mixture of weathered wooden commercial and residential structures sited to allow some unobstructed views of the ocean, bay and river from public streets, by the balance of the size and scale of its buildings, by its foot paths and back streets, by the presence of native vegetation, and by the architectural mix of its structures which contributes to the historical quality of the community.*

*Therefore, the Board finds that a Historical Preservation District is needed to preserve the architecture and character of this community. It further finds that the preservation of many buildings, representative of early northern California architecture within the Town of Mendocino is essential to the economic and cultural development of Mendocino, and to the economy of the town and of the County, which is in large measure based on tourism and visitors who have been attracted to the town in substantial numbers.*

Mendocino Town Zoning Code Section 20.760.010, "Designation of District," states in applicable part:

*In addition to the use regulations provided in this division there is hereby established the Mendocino Historical Preservation District which shall be an overlay district applying to the following unincorporated areas of the Town of Mendocino:*

- (A) *That area bounded on the north by Slaughterhouse Gulch, on the south by the waters of Big River and Mendocino Bay, on the west by the Pacific Ocean and the east (north of Little Lake Road) by those parcels fronting on the west side of Gurley Street (south of Little Lake Road), following the present Sewer District/Town Plan boundaries as per drawing (Assessor's Parcel Book 119, Pages 10 and 11)...*

Mendocino Town Zoning Code Section 20.760.015, "Designation of Historical Zones," states in applicable part:

*Within the Historical Preservation District as described in Section 20.760.010 of this chapter there are established Historical Zones as follows:*

*(A) Historical Zone A is all that area within the Historical Preservation District located west of California State Highway One.*

...

Mendocino Town Zoning Code Section 20.760.020, "Establishment, Power, Duties and Responsibility of Historical Review Board," states in applicable part:

*There is hereby established a Historical Review Board, hereinafter called "Review Board," whose function is to preserve the architecture and character of the Historic District, whose duties are to review all applications for development as described in Sections 20.760.030 and 20.760.035, within the Historical District and whose responsibility is to protect the landmark status of buildings, ensuring development is compatible with surrounding development.*

*Said Review Board shall consist of five (5) members who shall be electors and residents within the Historic District and, to the extent possible, represent a cross section of the community. . . .*

*All Review Board members shall be appointed by the Board of Supervisors to serve a term of three (3) years. . . .*

Mendocino Town Zoning Code Section 20.760.025, "Definitions," states in applicable part:

*In addition to the definitions provided in Chapter 20.068, the following supplemental terms used in this Chapter shall be defined as set forth herein:*

...

*(C) "Historically Important" means any structure where the construction date is known or closely estimated, research regarding its history is in progress, and the architecture has been modified.*

*(D) "Landmark Structure" means any structure where the construction date has been identified, its history has been substantiated, and only minor alterations have been made in character with the original architecture. Landmark structures*

*are identified in Appendix 14 of the Coastal Element of the Mendocino County General Plan.*

...

Mendocino Town Zoning Code Section 20.760.030, "Work in Historical Zone A Requiring Approval," states in applicable part:

*None of the following activities shall be commenced or continued within Historic Zone A, nor shall any building, demolition or any other permit necessary for such work, be issued without prior approval of the Review Board except as specifically provided in Section 20.760.040.*

*(A) The construction, reconstruction, rehabilitation, demolition, enlargement, repair, resisting or removal of any building or structure; or the alteration of the exterior architecture of any building or structure;*

*(B) Demolition or removal of any structure of a value of over one hundred dollars (\$100.00) or having a square footage area of over one hundred twenty (120) square feet;*

*(C) Any excavation of, or deposit of material upon, land in such a manner as to materially alter the existing contour or condition of the land, including leveling, grading, piling, paving or installation of retaining walls.*

*(D) All fences and/or exterior dividing walls;*

*(E) Walkways and driveways;*

...

*(G) Any outdoor lighting as defined herein;*

*(H) Any painting of the exterior of a newly constructed building or structure, or any painting of the exterior of an existing building or structure;*

...

*(K) Any construction related to landscaping in excess of six (6) feet in height.*

Mendocino Town Zoning Code Section 20.760.050, "Standards," states in applicable part:

*It is the intent of this section to provide standards which shall be used by the Review Board when considering applications subject to the provisions of this Chapter:*



*(A) Size, forms, materials, textures and colors shall be in general accord with the appearance of structures built in Mendocino prior to 1900. To this end they shall be in general accord with the designs as exemplified, but not limited to, those depicted in the photographs contained in Exhibit "B", a book of photographs which is incorporated herein by reference and is available for public inspection through the Clerk of the Mendocino Historical Review Board. This section shall not be interpreted as requiring construction to be with the forms, materials, textures, colors or design as used in Mendocino prior to 1900, but only that the construction be compatible with and not in disharmony with the architectural standards herein expressed.*

*(1) All activities subject to this Chapter shall relate to the area in which it is located through texture, size, proportion, height, form, style, siting, materials and relationship to surrounding structures. Contemporary design is not expressly prohibited.*

*(2) The excessive use of glass is discouraged.*

*(3) The architecture, size, materials, details, proportion, height, texture, color, façade treatment and fenestration of the work proposed insofar as the same affects the appearance of the subject property and other property within the district.*

*(4) Fences should be of wood, iron or plant materials. Retaining walls should be of dry stone, stone masonry or wood.*

*(5) Sidewalks of brick, flagstone or board are allowed. Driveways of grass, gravel or turfstone are allowed. Major coverage of front yard setbacks is prohibited.*

*(9) Exterior painting: In the use of paint color schemes involving more than one (1) color, the "accent" color shall be limited to those parts of the structure, defined herein;*

*(a) Basic color: applied to exterior siding.*

*(b) Trim color: applied to soffits, fascias and trim.*

*(c) Accent color: applied to window frames, emollients, muntins and doors.*

*(11) Landscaping: Any construction related to landscaping in excess of six (6) feet in height shall be compatible with and not in disharmony with the existing structure(s) in the property or other structures in the District.*

...

(C) *To determine whether activities subject to this chapter will be in conformance with the standards set forth above, the Review Board shall evaluate the following elements of each application proposal:*

(1) *Height. The height of any new development and of any alteration or new construction to a landmark structure shall be compatible with the style and character of the structure and with surrounding structures in the same Historical Zone.*

(2) *Proportions of Windows and Doors. The proportions and relationships between doors and windows of any new development and of any proposed alteration or new construction to a landmark structure shall be compatible with the architectural style and character of the structure and with surrounding structures in the same Historical Zone.*

(3) *Relationship of Building Masses and Open Spaces. All new development shall provide open space areas and the relationship of the siting of any development to the open space between it and adjoining structures shall be compatible. All development shall be compatible with public views to the sea and to landmark and historically important structures.*

(4) *Roof Shape. The design of the roof of any new development and of any proposed alteration or new construction to a landmark structure shall be compatible with the architectural style and character of the structure and surrounding structures in the same Historic Zone.*

(5) *Landscaping. Landscaping shall be compatible with the architectural character and appearance of adjacent landmark and historically important structures and surrounding structures, landscapes and public views in the same Historic Zone. Landscaping shall be used to effectively screen on-site parking areas where appropriate.*

(6) *Scale. The scale of any new development or alteration or new construction to an existing structure shall be compatible with the architectural scale and character of existing and surrounding structures in the same Historic Zone.*

(7) *Directional Expression. Facades shall blend with other structures with regard to directional expression and structures shall be compatible with the dominant vertical expression of surrounding structures. The directional expression of a landmark and/or historically important structure after alteration, construction or partial demolition shall be compatible with its original architectural style and character.*

(8) *Architectural Details. Where any alteration, demolition or new construction is proposed for a landmark or historically important structure, architectural details, including materials, color, textures, fenestration and ornamentation shall be treated so as to make the structure compatible with its original architectural style and character, and to preserve and enhance the architectural style and character of the structure.*

Mendocino Town Zoning Code Section 20.760.060, "Processing of Applications," states in applicable part:

...  
(D) *Action by the Review Board. At the scheduled public hearing, or at any other time to which said public hearing may be continued, the Review Board shall consider the application, shall hear and consider all arguments and evidence presented for or against the proposed work, and shall take action by majority vote of the members of the Review Board present. Any one (1) or a combination of the following four (4) different actions may be made for each application:*

(1) *Make such findings or determination as is required by this chapter and approve the application; or*

(2) *Make such findings or determination as is required by this chapter, including performance of, or compliance with, changes, modifications or conditions necessary to assure conformity with this chapter and required for approval of the application; or*

(3) *Make such findings or determination as is required by this chapter and deny the application if:*

(a) *The application cannot be conditioned by adequate requirements to insure compliance with this chapter; or*

(b) *The proposed development cannot be modified to conform with this chapter; or*

(c) *The proposed development would adversely effect a landmark structure.*  
...

**Discussion of Whether Contention Raises Substantial Issue With Respect to Appeal No. A-1-MEN-02-157 (Permit Amendment)**

Both appellants contend that the amended development as approved is inconsistent with the visual resource policies of the LCP including Land Use Plan policies 3.5-1, 3.5-3,

3.5-4, Mendocino Town Plan Zoning Code Section 20.644, and Mendocino County Coastal Zoning Code Sections 20.504.015(C)(2). The appellants contend that the amended development as approved is incompatible with the character of its neighborhood which Appellant Adams characterizes as one-story modest homes with shingle siding built in the 1950s. The incompatibility of the design creates visual impacts to public viewing areas, especially from vantage points at nearby Mendocino Headlands State Park. Specific aspects of the amended development cited by Appellant Adams B that make the amended development incompatible with the character of its neighborhood include (1) the two-story design; (2) the comparatively large size and bulk of the approved house; (3) the huge brick wainscot around the perimeter of the structure, (4) its lighthouse cupola and its architectural copper flues which could remain shiny and reflective for many years; (5) the red and green colors of the amended house design, (6) the gate across the driveway of the residence; (7) the lanterns on brick piers along the driveway; and (8) the number of exterior light fixtures and the light these light fixtures would cast at night. Appellant Adams notes that if the house were set further back from the edge of the bluff, there would be room behind the geologic setback to plant landscaping to mitigate the visual impact of the development on Mendocino Headlands State Park and its coastal trails.

The Commission finds that the County's approval of the permit amendment does not raise a substantial issue of conformance with the visual resource policies of the LCP including Land Use Plan policies 3.5-1, 3.5-3, 3.5-4, Mendocino Town Plan Zoning Code Section 20.644, and Mendocino County Coastal Zoning Code Sections 20.504.015(C)(2).

**Discussion of Whether Contention Raises Substantial Issue With Respect to Appeal No. A-1-MEN-02-158 (Demolition and Siting of New Home)**

As noted above, both appellants contend that the development as approved is inconsistent with the visual resource policies of the LCP including Land Use Plan policies 3.5-1, 3.5-3, 3.5-4, Mendocino Town Plan Zoning Code Section 20.644, and Mendocino County Coastal Zoning Code Sections 20.504.015(C)(2). Appellant Adams notes that if the house were set further back from the edge of the bluff, there would be room behind the geologic setback to plant landscaping to mitigate the visual impact of the development on Mendocino Headlands State Park and its coastal trails.

The Commission finds that the County's approval of the demolition of the previously existing structure and the siting of the new house on the parcel does not raise a substantial issue of conformance with the visual resource policies of the LCP including Land Use Plan policies 3.5-1, 3.5-3, 3.5-4, Mendocino Town Plan Zoning Code Section 20.644, and Mendocino County Coastal Zoning Code Sections 20.504.015(C)(2).

b. Conformance With Geologic Hazard Policies

The appellants allege that the amended development as approved does not conform with the geologic hazard policies of the LCP as no specific geologic report was prepared to address the changes to the project approved by the amendment.

LCP Policies:

LUP Policy 3.4-7 states that:

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

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

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

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

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

LUP Policy 3.4-9 states that:

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

LUP Policy 3.4-12 states that:

*Seawalls, breakwaters, revetments, groins, harbor channels and other structures altering natural shoreline processes or retaining walls shall not be permitted unless judged necessary for the protection of existing development or public beaches or coastal dependent uses. Allowed developments shall be processed as conditional uses, following full environmental, geologic and engineering review. This review shall include site specific information pertaining to seasonal storms, tidal surges,*

*tsunami runups, littoral drift, sand accretion and beach and bluff face erosion. In each case, a determination shall be made that no feasible less environmentally damaging alternative is available and that the structure has been designed to eliminate or mitigate adverse impacts upon local shoreline sand supply and to minimize other adverse environmental effects. The design and construction of allowed protective structures shall respect natural landforms, shall provide for lateral beach access, and shall minimize visual impacts through all available means. [emphasis added]*

Coastal Zoning Code Section 20.500.010 states that development shall:

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

Coastal Zoning Code Section 20.500.015 states in applicable part:

*(A) Determination of Hazard Areas.*

*(1) Preliminary Investigation. The Coastal Permit Administration shall review all applications for Coastal Development Permits to determine threats from the impacts on geologic hazards.*

*(2) Geologic Investigation and report. In areas of known or potential geologic hazards such as shoreline and blufftop lots and areas delineated on the hazard maps, a geologic investigation and report, prior to development approval, shall be required. The report shall be prepared by a licensed engineering geologist or registered civil engineer pursuant to the site investigation requirements in Chapter 20.532.*

*(B) Mitigation Required. Where mitigation measures are determined to be necessary, the foundation, construction and earthwork shall be supervised and certified by a licensed engineering geologist or a registered civil engineer with soil analysis expertise who shall certify that the required mitigation measures are incorporated into the development. (Ord. No. 3785 (part), adopted 1991)*

Coastal Zoning Code Section 20.500.020(B) states in applicable part:

...

(B) Bluffs.

(1) *New structures shall be set back a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (seventy-five (75) years). New development shall be set back from the edge of bluffs a distance determined from information derived from the required geologic investigation and the setback formula as follows:*

*Setback (meters) = structure life (75 years) x retreat rate (meters/year)*

*Note: The retreat rate shall be determined from historical observation (aerial photos) and/or from a complete geotechnical investigation.*

(2) *Drought tolerant vegetation shall be required within the blufftop setback.*

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

...

Coastal Zoning Code Section 20.532.070 states in applicable part:

(A) The extent of additional geotechnical study that must accompany Coastal Development applications depends on the site and type of project as follows:

(1) Land Use and Building Type.

...

(c) type 3: Residential (less than eight (8) attached units), and Manufacturing and Storage/Warehouse (except where highly toxic substances are involved which should be evaluated on an individual basis with mandatory geotechnical review).

(2) Required Studies.

(a) Fault Rupture. Prior to proceedings with any Type 1 development, published geologic information shall be reviewed by an engineering geologist or civil engineer, the site shall be mapped geologically and aerial photographs of the site and vicinity shall be examined for lineaments. Where these methods indicate the possibility of faulting, a thorough investigation is required to determine if the area contains a potential for

fault rupture. All applications for development proposals shall be reviewed for compliance with the Alquist-Priolo Special Studies Zone Act pursuant to Subsection (D) below and shall be deemed incomplete until such time as the reviewing geologist report is accepted by the County.

(b) Seismic-Related Ground Failure. Site investigation requirements for seismic-related ground failure are described as follows:

(i) Land Use/Building Type 2 and 3 within Zone 1 (Low): Current building code requirements must be met, as well as other existing state and local ordinances and regulations. A preliminary geotechnical investigation should be made to determine whether or not the hazards zone indicated by the Land Capabilities/Natural Hazards maps is reflected by site conditions.

(ii) Land Use/Building Type 1 within Zone 1 (Low) and Land Use/Building Type 3 within zones 2 (Moderate) and Zone 3 (High): In addition to Subsection (i), above, geotechnical investigation and structural analysis sufficient to determine structural stability of the site for the proposed use is necessary. It may be necessary to extend the investigation beyond site boundaries in order to evaluate the shaking hazards. All critical use structure sites require detained subsurface investigation.

(c) Tsunami. Land Use Types 1, 2 and 3 shall not be permitted in tsunami-prone areas. Development of harbors and Type 4 uses should be permitted, provided a tsunami warning plan is established.

(d) Landsliding. All development plans shall undergo a preliminary evaluation of landsliding potential. If landslide conditions are found to exist and cannot be avoided, positive stabilization measures shall be taken to mitigate the hazard.

**Discussion of Whether Contention Raises Substantial Issue With Respect to Appeal No. A-1-MEN-02-157 (Permit Amendment).**

Both appellants question the conformance of the amendment as approved with the geologic hazard policies of the LCP. Coastal Zoning Code Section 20.500.010 states that development shall minimize risks to life and property in areas of high geologic hazard and neither create nor contribute significantly to erosion or geologic instability, or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. In addition, LUP Policy 3.4-7 requires that new structure be set back a sufficient distance from the edge of bluffs to ensure their safety from bluff erosion during their economic life spans (75 years). Furthermore, Section 20.500.015 of the Coastal Zoning Code requires the preparation of geologic



investigations and reports for applications for coastal development permits on blufftop lots to determine the threats from the impacts on geologic hazards. Moreover, Section 20.532.070 requires certain additional geotechnical study accompany coastal development applications for particular kinds of development in particular situations to examine impacts associated with fault rupture, seismic-related ground failure, tsunami, and landsliding.

A geotechnical report was prepared in 2001 for the permit application for the original project, but no new geotechnical report was prepared for the permit amendment request. Appellant Adams contends that in order for the amended development to be found consistent with Coastal Zoning Code Sections 20.500.015 and 20.532.070, a new geotechnical report should have been prepared for the amended development because the geotechnical report is specific to the original plan and orientation and the amended development results in a different house than was originally approved. The appellant notes that landslides have affected the bluff face on the property and notes that the new house may be a much heavier building with the increased use of brick over the original design for façade areas and chimneys, and will have a different orientation. The appellant implies that these changes may affect geologic stability, inconsistent with the Coastal Zoning Code.

The 2001 geotechnical report was prepared by Bace Geotechnical, a division of Brunsing Associates, Inc. The scope of the geotechnical investigation included analysis of (a) the geologic suitability of the site for residential development, (b) the slope stability of the site and appropriate bluff edge setback criteria for residential development, (c) the potential effects of seismicity and fault rupture, and (d) appropriate foundation design and site drainage criteria. The investigation included geologic map and literature research, study of aerial photographs, geologic reconnaissance, subsurface exploration utilizing exploratory borings to depths ranging from 14.5 feet to 17.5 feet below the ground surface, laboratory testing and engineering, and geologic analysis.

The geotechnical report concludes that the project site is suitable for the residential development proposed and later authorized under the original permit. The report indicates that the main geotechnical consideration affecting the design and construction of the project are potential settlement, bluff stability, and the potential for strong shaking due to earthquakes. As no active faults were observed or shown on public maps in the site vicinity, the geotechnical report concludes that the risk of surface fault rupture at the site is very low. Settlement is a concern as the site is mantled with loose near surface soils ranging from about 4 to 5 feet deep. A primary recommendation of the report to avoid settlement is to support the structure foundations on drilled piers driven at least four feet into bedrock with connecting grade beams. With regard to bluff stability, the report concludes the bluffs are eroding at varying, non-uniform rates due to periodic rock falls or infrequent, shallow landslides. The report determines that the bluff has been retreating at a rate of four inches per year, resulting in a bluff set back recommendation of 25 feet to protect the development over a 75-year economic lifespan. With regard to

ground shaking, the report concludes that with the use of the drilled pier foundation connected with grade beams, the lurching should not be a concern at the site and the development should otherwise be suited to resist the effects of ground shaking.

Although the report contains a standard clause stating that the recommendations contained in the report are based on certain specific project information regarding the type of construction and building location, the only references to construction type in the report are references to wood-frame construction. The recommendations of the geotechnical report are not specific to particular features of the house design such as the particular weight of the structure, the proposed building materials, or the orientation of the structure. Except for the proposed location for the house and the assumption that the house will be of wood frame construction, the recommendations are driven by site conditions rather than particular aspects of the proposed design. In addition to the recommendation for the use of drilled piers with connecting grade beams for the foundation, the design recommendations include general recommendations for compacting fill placed on the site, using fill material free of perishable matter and rocks greater than 6 inches deep, designing the structure to incorporate seismic design criteria found in the Uniform Building Code, placing concrete floor slabs on at least 18 inches of compacted fill, intercepting and diverting concentrated surface flows and subsurface seepage away from building foundations and collected concentrated flows from roof downspouts and area drains in a closed pipe and discharging into the functioning storm drain system on the site or into a natural drainage area well away from the bluff top and the building or driveway areas. These recommendations would be equally applicable to the project as amended as they are to the original project.

In making their contentions that the existing geotechnical report is inadequate for the project as amended, the appellants do not provide any new geologic information to support their claims. No geologic analysis or other commentary from a geologist is provided that supports the premise that the original geotechnical report is inadequate in demonstrating that the project as redesigned in the same location will minimize the risks of geologic hazards.

The permit amendment granted by the Coastal Permit Administrator states that all conditions of the original approval remain in effect. Special Condition No. 1 of the original permit requires that all recommendations from the geotechnical report be incorporated in the design and construction of the project. The condition also requires that BACE review the final grading drainage and building plans for conformance with their recommendations. Therefore, the geologist who prepared the geotechnical report is required to review the plans for the project as amended to ensure that the new design conforms with the recommendations of the geotechnical report and that the recommendations are implemented in a manner appropriate to the new design. Thus, the fact that another geotechnical report specific to the new design was not prepared does not raise a substantial issue that the project as amended would contribute to geologic hazards.

The Commission also notes that Special Condition No. 2 of the original permit requires the applicants to execute and record a deed restriction prohibiting the construction of seawalls and other protective devices during the life of the project, and requires that the landowner be responsible for any clean up associated with portions of the development that might fall onto a beach or into the ocean.

With regard to specific conformance of the project as amended with the geologic information and evaluation requirements of Coastal Zoning Code Sections 20.500.015 and 20.532.070, the Commission notes that both code sections require the submittal of certain geologic information prior to development approval, but do not necessarily require the submittal of complete reevaluation of the geologic hazards of the site for every subsequent permit amendment. In some amendment situations, such a reevaluation may be necessary, such as if a different development location on the property is proposed or a completely different use or kind of construction is proposed, or in other situations where geologic evidence suggests that the impacts of the amended development on geologic hazards would be substantially different. In this case however, no substantial issue is raised that the geologic impacts of the amended development would be substantially different than the geologic impacts of the originally approved development. The appellants raise concerns that because the new design would include a greater use of brick, the amended house design would be substantially heavier than the original design and could contribute to greater geologic impacts. As discussed above, however, the geotechnical report prepared for the project does not reference the specific weight of the proposed structure as a factor in determining appropriate recommendations to minimize geologic hazards. In addition, the appellants have not submitted any evidence that any increase in weight associated with the greater use of brick in the amended design would affect geologic stability to any greater degree than the original design. The original 2001 geotechnical report provides an analysis of the threats from the impacts on geologic hazards of development of a wood frame house in the approved development site on the property as approved in the permit amendment that examines the particular hazards of bluff retreat, seismic-related ground failure, and landsliding as required by Sections 20.500.015, 20.500.020, and 20.532.070 of the Coastal Zoning Code. Therefore, no substantial issue of conformance with the geologic information submittal requirements of Sections 20.500.015, 20.500.020, and 20.532.070 of the Coastal Zoning Code is raised by use of the geotechnical report for the original project in the County's consideration of the permit amendment.

The prior investigation and preparation of the geotechnical report, together with the conditions of approval that require implementation of the recommendations of the geotechnical report and review by the geologist of the final plans for the amended development to ensure that the new design conforms with the recommendations of the geotechnical report and that the recommendations are implemented in a manner appropriate to the new design, provides a high degree of factual and legal support for the local government's decision that the amended development is consistent with the geologic hazard policies of the certified LCP. In contrast, the lack of geotechnical

analysis to support the appellants' contentions does not provide factual or legal support that the redesign of the amended development would create greater risks of geologic hazards than the originally approved design. Therefore, for all of the above reasons, the Commission finds that the County's approval of the permit amendment does not raise a substantial issue of conformance with the geologic hazard provisions of the LCP, including LUP Policy 3.4-7 and Coastal Zoning Code Sections 20.500.010, 20.500.015, 20.500.020, and 20.532.070.

**Discussion of Whether Contention Raises Substantial Issue With Respect to Appeal No. A-1-MEN-02-158 (Demolition and Siting of New Home)**

As noted above, both appellants question the conformance of the amendment as approved with the geologic hazard policies of the LCP. The demolition of the original structure and the siting of the new house on the site which is the subject of Appeal No. A-1-MEN-02-158, doesn't raise the particular geologic issue raised in the appeal. The appellants are questioning whether the changes to the design of the house site as modified by Coastal Development Permit Amendment No. 67-00M) may affect the geologic stability of the development. Therefore, the Commission finds that the contention does not raise a substantial issue of conformance of the County's approval of the demolition of the original structure and the siting of the new house with the geologic hazard provisions of the LCP.

**c. Lot Coverage**

The appellant Adams alleges that the lot coverage of the amended project is larger than the 20% lot coverage standard of the Mendocino Town Zoning Code applicable to the parcel

**LCP Policies:**

Mendocino Town Plan Zoning Code Section 20.608.031, "Definitions, (L)," states in applicable part:

- (13) *"Lot Coverage" means the percentage of gross lot area covered by all buildings and structures on a lot, including decks, porches, and walkways; excluding uncovered required parking areas, landscaping, patios and terracing.*

Mendocino Town Plan Zoning Code Section 20.608.038, "Definitions, (S)," states in applicable part:

- (33) *"Structure" means anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, including, but not limited to, any building, road, pipe, flume,*

*conduit, siphon, aqueduct, telephone line, electrical power transmission and distribution line, antenna and satellite dish.*

Mendocino Town Plan Zoning Code Section 20.644.050, "Maximum Lot coverage for MRR Districts," states:

*Twenty (20) percent for parcels less than two (2) acres in size. Fifteen (15) percent for parcels from two (2) acres to five (5) acres in size. Ten (10) percent for parcels over five (5) acres in size.*

**Discussion of Whether Contention Raises Substantial Issue With Respect to Appeal No. A-1-MEN-02-157 (Permit Amendment)**

Appellant Adams contends that the lot coverage of the amended project is larger than the 20% lot coverage standard of the Mendocino Town Zoning Code for parcels less than two acres in size in the Mendocino Rural Residential (MRR) District specified in Mendocino Town Plan Zoning Code Section 120.644.052. The appellant contends that neither the area of the driveway nor the new brick piers topped by lights on either side of the driveway appeared in the lot coverage calculations.

The project plans submitted with the permit amendment request indicate that the site area of the parcel is 23,670 square feet, or a little more than half an acre. Mendocino Town Plan Zoning Code Section 120.644.052 states that the maximum lot coverage for parcels of less than 2 acres in size in the MRR Zoning District is 20%. Therefore, the allowable site coverage on the subject parcel is 20% of 23,670, or 4,734 square feet.

The calculations provided on the application site plans indicate that the total lot coverage of the amended development is 4,521 square feet, 213 square feet less than the maximum 20% lot coverage allowable on the parcel. This total is comprised of the 3,830-square-foot footprint of the building, the 48 square feet of area occupied by tanks and a landscaping wall, and the 604 square feet of area covered by decks and a hot tub.

The appellant indicates that the lot coverage figure provided is in error in that the figure does not take into account two brick pedestals approved on either side of the entry drive to the site as well as the driveway itself.

Mendocino Town Plan Zoning Code Section 20.608.031 defines lot coverage as the percentage of gross lot area covered by all buildings and structures on a lot, including decks, porches, and walkways; excluding uncovered required parking areas, landscaping, patios and terracing. This definition appears to include the approved brick pedestals in the lot coverage calculation as other structures on the lot. The two brick pedestals each are approximately 9 square feet in area. Including the pedestals within the lot coverage

calculation brings the total lot coverage to 4, 539 square feet, still 195 square feet below the maximum 20% lot coverage standard.

No calculation of the total area of the approved driveway is provided, but it appears to be well over 1,000 square feet in size. Including the driveway in the lot coverage calculation would boost the lot coverage total well above the 20% maximum. However, the definition of lot coverage in Code Section 20.608.031 is not clear with regard to whether a gravel driveway should be include in the lot coverage total. Driveways are neither specifically included nor specifically excluded from the definition, although uncovered required parking areas which are similar to driveways are excluded. County staff of the Planning and Building Division have indicated to Commission staff that the County's interpretation of Code Section 20.608.031 is that driveways should not be included in the total lot coverage calculation.

The lack of specificity of Code Section 20.608.031 with regard to whether driveways must be included in the lot coverage calculation and the fact that including the driveway in the lot coverage calculation would cause the development as modified by the permit amendment to exceed the lot coverage standard raises an issue with regard to the conformance of the approved permit amendment with Code Section 20.608.031. However, the Commission finds that the issue is not substantial. The significance of the coastal resource affected by the decision is not great, as it concerns whether a relatively small amount of additional open space on a residential lot within a developed neighborhood should be provided. In addition, the narrow lot coverage issue raises only a local issue rather than an issue of regional or statewide significance. Therefore, for all of the above reasons, the Commission finds that the County's approval of the permit amendment does not raise a substantial issue of conformance with the lot coverage provisions of Mendocino Town Plan Zoning Code Section 20.608.031.

**Discussion of Whether Contention Raises Substantial Issue With Respect to Appeal No. A-1-MEN-02-158 (Demolition and Siting of New Home)**

As noted above, Appellant Adams contends that the lot coverage of the amended project is larger than the 20% lot coverage standard of the Mendocino Town Zoning Code for parcels less than two acres in size in the Mendocino Rural Residential (MRR) District specified in Mendocino Town Plan Zoning Code Section 120.644.052. The demolition of the original structure and the siting of the new house on the site which is the subject of Appeal No. A-1-MEN-02-158, doesn't raise the lot coverage issue. The lot coverage concern raised is specific to the size of the building footprint and other development on the site as modified by Coastal Development Permit Amendment No. 67-00M). Therefore, the Commission finds that the County's approval of the demolition of the original structure and the siting of the new house on the site does not raise a substantial issue of conformance with the lot coverage provisions of the LCP.

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

a. Processing as Immaterial Amendment

Both appellants contend that the County erred in processing the amendment request as an immaterial amendment in a manner inconsistent with Mendocino Town Plan Zoning Code Sections 20.720.040, 20.720.045, and 20.720.055. The appellants contend that the changes in the development raise issues of consistency with the certified LCP policies and thus the amendment should not have been considered immaterial. Appellant Adams contends that the new house will be a much heavier building than the originally approved house and as the geotechnical report prepared for the project was specific to the original design, questions are raised concerning conformance of the permit as amended with the hazard policies of the certified LCP that necessitate processing a new coastal development permit for changes to the project with a full public hearing instead of as an immaterial amendment approved administratively by the Coastal Permit Administrator. In addition, Appellant Adams contends that a number of changes in the design of the house through the permit amendment raise questions of conformance of the permit as amended with the visual resource policies of the LCP that should have triggered the need for processing a new coastal development permit, particular policies requiring new development to be compatible with the character of the surrounding neighborhood and requiring new development to protect views from public roads, coastal trails, and parks. Such design changes noted by Appellant Adams include the complete change of architectural style; the change in the orientation of the house and the garage; the change of building materials from cedar shingle to a combination of lap siding, shingle, and brick; the change in building material colors from dark grays to balsom forest and driftwood colors with olive tinge and red brick; the addition of a long walkway covered by a trellis, changes deck design, changed lighting plan and fixtures, additional landscaping, and the addition of a fence along the south side of the house. Appellant Curry also contend s that totally new design and the change in orientation of the structure by 27 degrees approved through the immaterial amendment raise questions of conformance of the permit as amended with the visual resource policies of the LCP that should have triggered the need for processing a new coastal development permit. Furthermore, the appellants contend that the County did not follow the immaterial amendment procedures set forth in the Mendocino Town Zoning Code that provide for immaterial amendments to be scheduled for a public hearing if objections are submitted. The appellants claim that they and other members of the public had submitted letters to the County within 10 days of the County's decision to process the amendment as an immaterial amendment objecting to the procedure, but the County did not schedule a hearing, inconsistent with the amendment procedures of the Town Zoning Code.

Discussion:

The appellant's contention is not a valid grounds for an appeal as established by Section 30603(b)(1) of the Coastal Act as the contention does not allege an inconsistency of either of the approved developments on appeal with the certified LCP or the public access policies of the Coastal Act. That is, rather than challenging the developments on appeal as approved, the appellants challenge the process of application review that lead up to the approval of the permit amendment to modify the design of the house originally approved under Coastal Development Permit No. 67-00. Therefore, the Commission concludes that this contention is not a valid ground for appeal.

**b. Height**

Appellant Adams contends that the house approved by the amendment is not consistent with the height requirements imposed by the original permit approval for the house (Mendocino County CDP 67-00). The appellant asserts that since the new design was approved as an amendment to the original permit, the new design must meet the height requirement of the original permit. The appellant states that the project permitted under the original permit had a maximum height allowance of 26 feet, six inches but that the height of the "lighthouse" portion of the new house design approved under the amendment is nearly 28 feet as scaled off of the blueprints, and the height of the approved copper flues approved under the amendment scales to close to 29 feet.

**Discussion:**

The appellant's contention is not a valid grounds for an appeal as established by Section 30603(b)(1) of the Coastal Act as the contention does not allege an inconsistency of either of the approved developments on appeal with the certified LCP. That is, rather than challenge the consistency of the height of the modified house approved by the amendment with the height standards of the LCP, the appellant asserts that the height of the modified house approved by the amendment is inconsistent with the height of the originally approved project.

Even if the appellants had alleged an inconsistency of the developments as approved with a particular policy of the LCP, the premise that the development as amended must be consistent with the height approved in the original permit is not correct. The project description for the originally approved project indicates that the maximum height of the remodeled and enlarged house would not exceed 26 feet, six inches. The original permit does not have any conditions relating to the height of the structure, other than the provisions of Standard Condition No. 3, which state that the application, along with supplemental exhibits and related material, shall be considered elements of the permit and that compliance therewith is mandatory, unless an amendment is approved.

As noted by the appellant, the project description for permit amendment No. 67-00(M) does not specifically mention changes to the height of the structure. However, the



description does not specify in detail every change to the original project approved through the amendment. Instead the amendment description focuses on the major changes that include changes to the orientation of the house, changes in the window configuration, and changes in the style of architecture from a "contemporary" to an "arts and crafts" design. Many smaller details of the permit amendment are not specifically mentioned in the project description, including the heights of different elements of the approved structure. However, the permit amendment application does include project exhibits depicting the changed design. Pursuant to Standard Condition No. 3 of the original permit, these supplemental exhibits and related materials shall be considered elements of the permit. Therefore, the amendment does change the height of the structure to the degree that changes in height are shown in the permit amendment request exhibits, even though the specific height changes are not expressly described in the narrative description of the permit amendment. The appellant does not identify any LCP policy that requires that heights of proposed development must be specified in the written narrative description of a proposed development rather than just depicted in the project exhibits submitted as part of the application.

The appellant indicates that the project plans submitted with the permit amendment request contains discrepancies between the heights noted on the plans and the heights of the same elements one obtains by scaling off the plans. The appellant indicates that the height of the "lighthouse," or cupola is stated as 26 feet, six inches on the blueprints but scales at nearly 28 feet. The appellant also notes that the scaled height of one of the flues or vent structures is close to 29 feet.

To the extent that there are discrepancies between the heights noted on the plans and the heights of the same elements obtained by scaling the features on the plans, the maximum heights noted by the appellant are still within the height limits prescribed by the certified LCP. The project site is within the Mendocino Rural Residential (MRR) zoning district. Section. Mendocino Town Zoning Code Section 20.644.040, "Maximum Building Heights Limit for MRR Districts," states that structures shall be limited to two (2) stories and at no point on a parcel shall the building height exceed twenty-eight (28) feet. Building height is defined in Mendocino Town Plan Zoning Code Section 20.608.021 as "*the vertical distance from the ground level of any point or the building to the highest point of the roof ridge or parapet wall.*" Thus, the Mendocino Town Plan Zoning Code limits roof ridges of structures 28 feet, although features such as chimneys and vents that extend above the roof ridge may be taller. The appellant indicates that the roof ridge of the cupola structure, the tallest roof ridge of the amended development, scales at approximately 28 feet. This height matches the maximum allowed by the Mendocino Town Plan Zoning Code. The allegation that the vent structure scales at close to 29 feet, does not raise an issue of conformance with the 28-foot maximum height limit of Mendocino Town Zoning Code Section 20.644.040 as the vent is not a portion of the roof ridge or parapet wall to which the 28-foot maximum height applies.

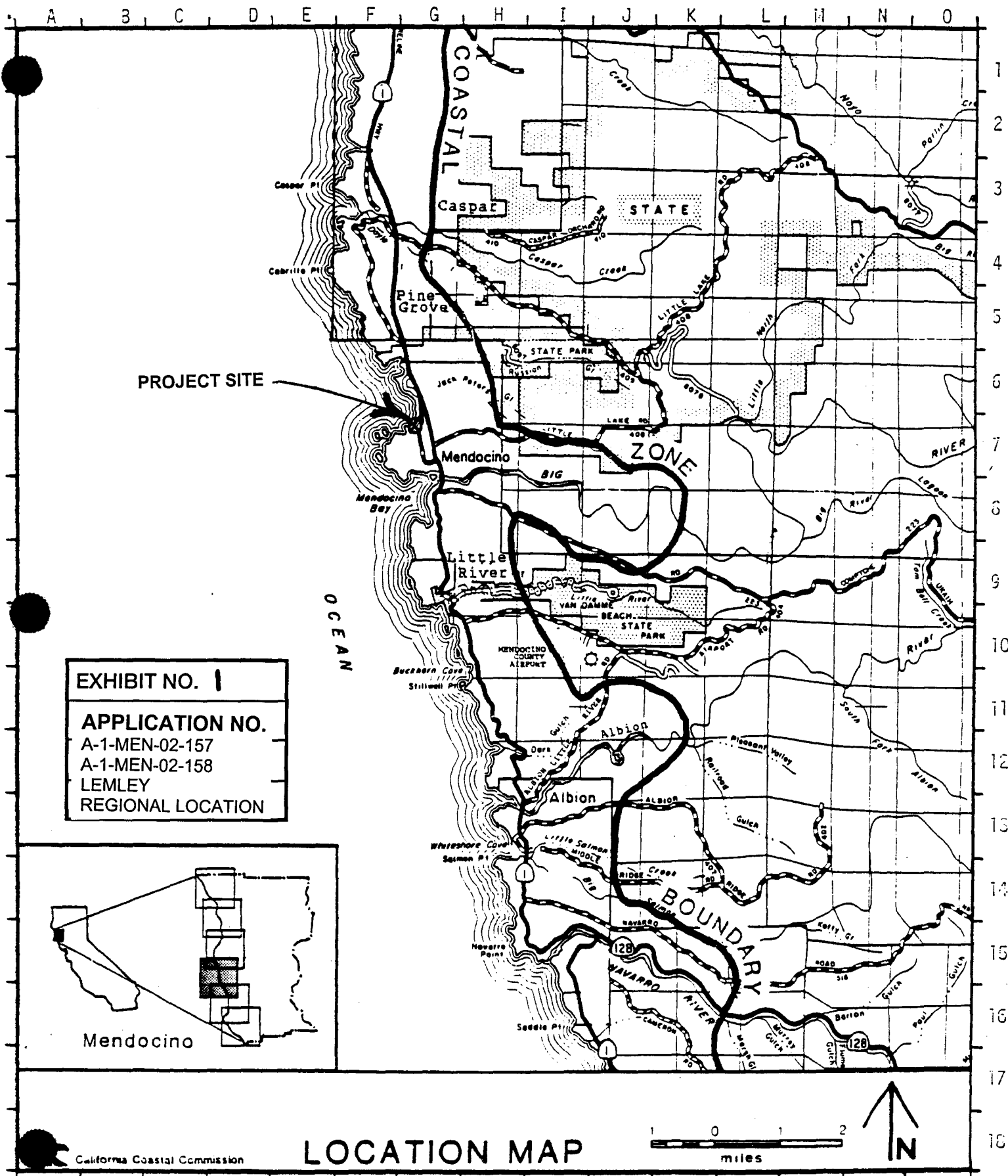
The Commission finds that the contention that the height of the structure as modified by the permit amendment as approved is inconsistent with the height of the originally approved structure is not a valid ground for appeal, as the contention does not allege an inconsistency of the project as approved with a policy or standard of the certified LCP or the public access policies of the Coastal Act.

**Conclusion:**

The Commission finds that for the reasons stated above, the project as approved by the County raises no substantial issue with respect to the conformance of the approved project with the policies of the LCP regarding (1) the compatibility of the amended development as approved with the visual character of its neighborhood, (2) geologic hazards, and (4) lot coverage requirements. Furthermore, the Commission finds that the contentions raised regarding (5) the processing of the amendment request as an immaterial amendment and (6) height requirements are not valid grounds for appeal.

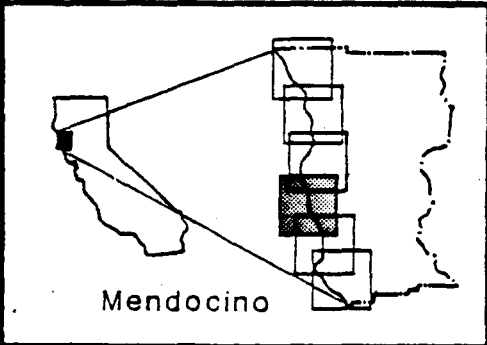
**EXHIBITS:**

1. Regional Location Map
2. Vicinity Location Map
3. Photos of Previous House
4. Plans for Originally Approved House Remodel (CP#67-00)
5. Conditions of Approval for Originally Approved House Remodel (CP#67-00) Appeal
6. Plans for Approved Amendment CP#67-00(M)
7. Approved Amendment CP#67-00(M)
8. Commission Action on Dispute Resolution Proceedings
9. Notification of Appeal Period
10. Appeal by Joan Curry
11. Appeal by Hillary Adams
12. Text of Geotechnical Report
13. Correspondence



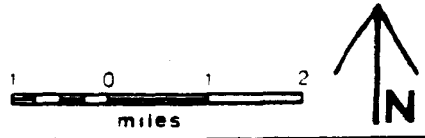
**EXHIBIT NO. 1**

**APPLICATION NO.**  
 A-1-MEN-02-157  
 A-1-MEN-02-158  
**LEMLEY**  
**REGIONAL LOCATION**

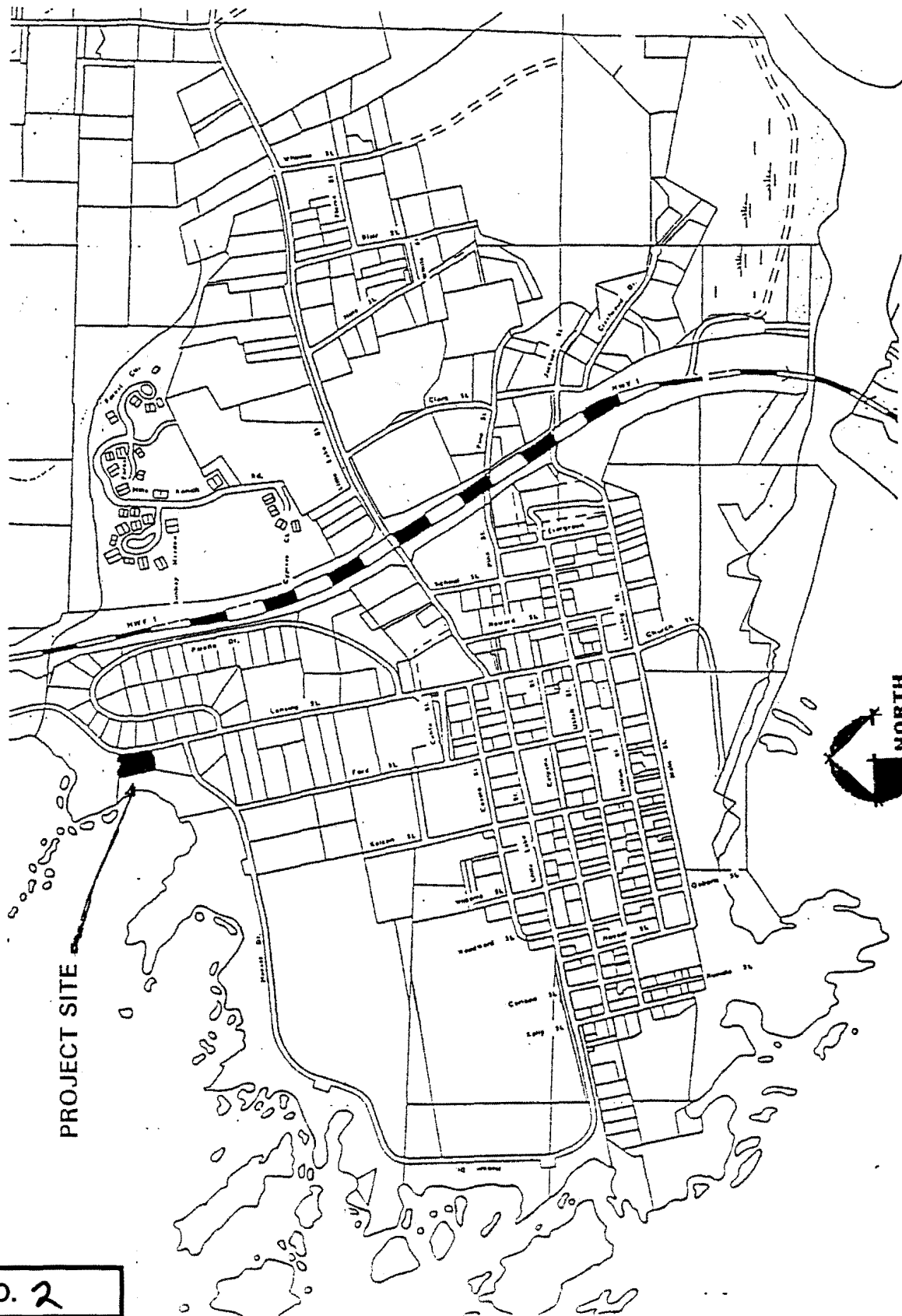


California Coastal Commission

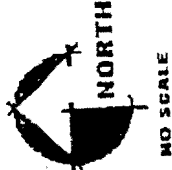
**LOCATION MAP**



Town of Mendocino



PROJECT SITE



**EXHIBIT NO. 2**  
**APPLICATION NO.**  
A-1-MEN-02-157  
A-1-MEN-02-158  
**LEMLEY**  
**VICINITY MAP**

Location Map

# LEMLEY

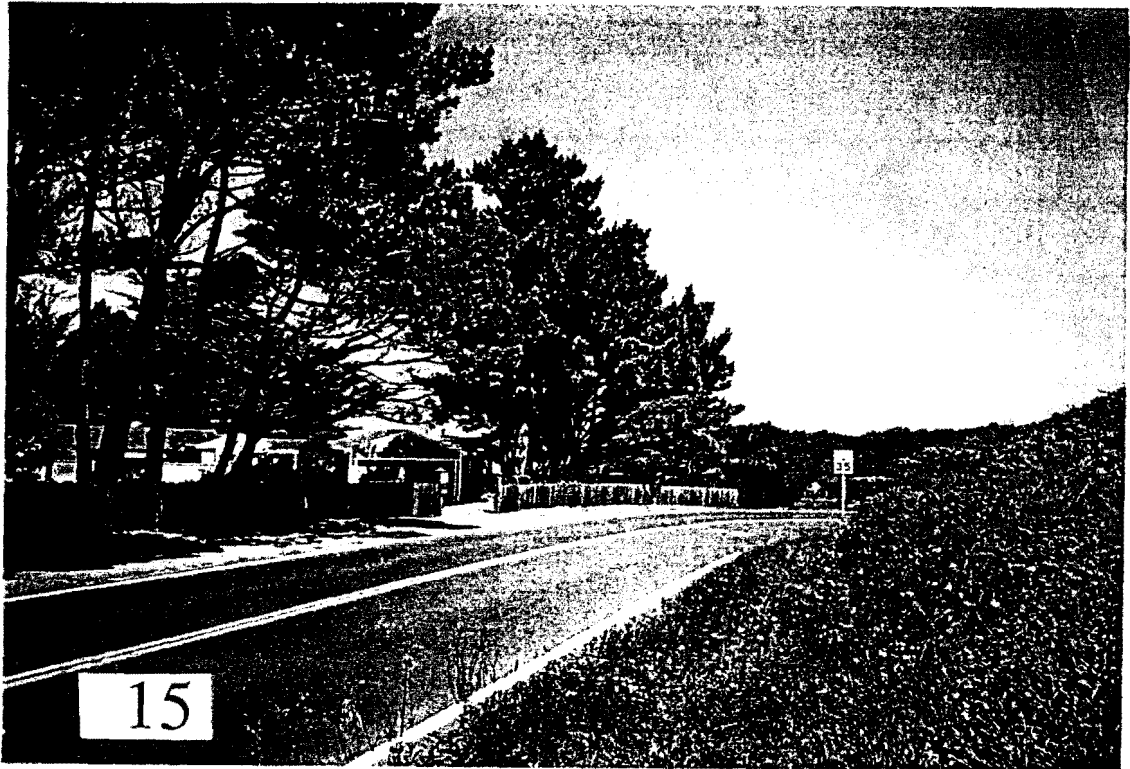


EXHIBIT NO. 3

APPLICATION NO.

A-1-MEN-02-157

A-1-MEN-02-158

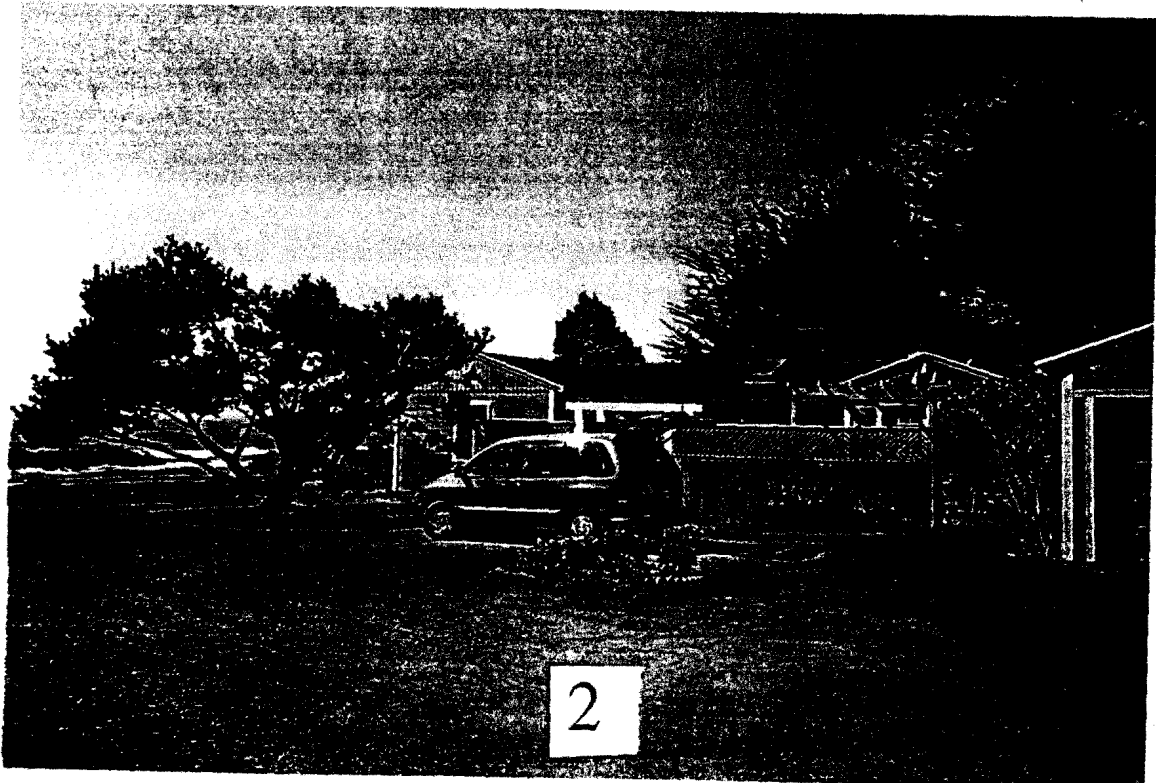
PREVIOUS HOUSE

(1 of 2)

# LEMLEY

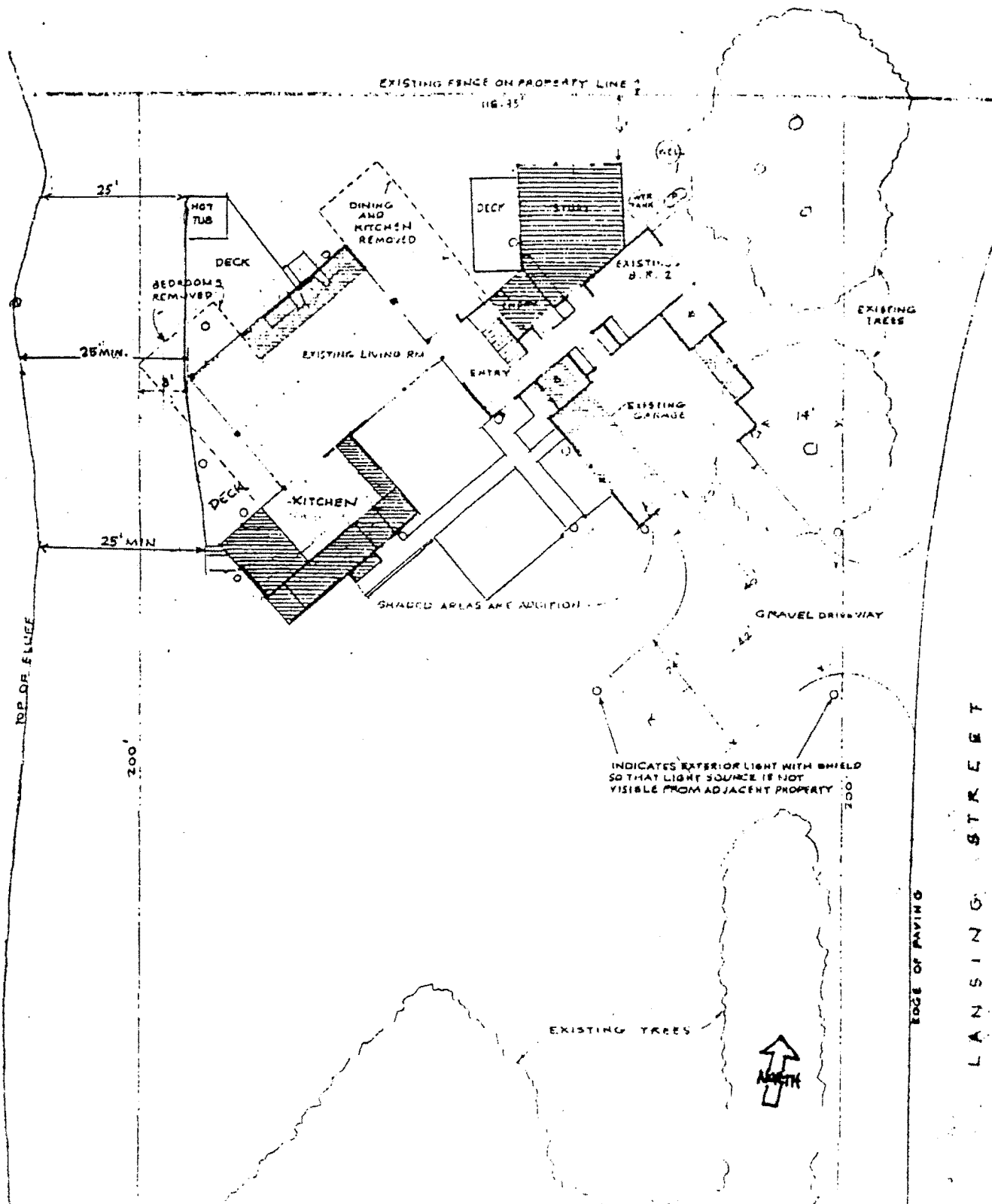


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**EXHIBIT NO. 4**

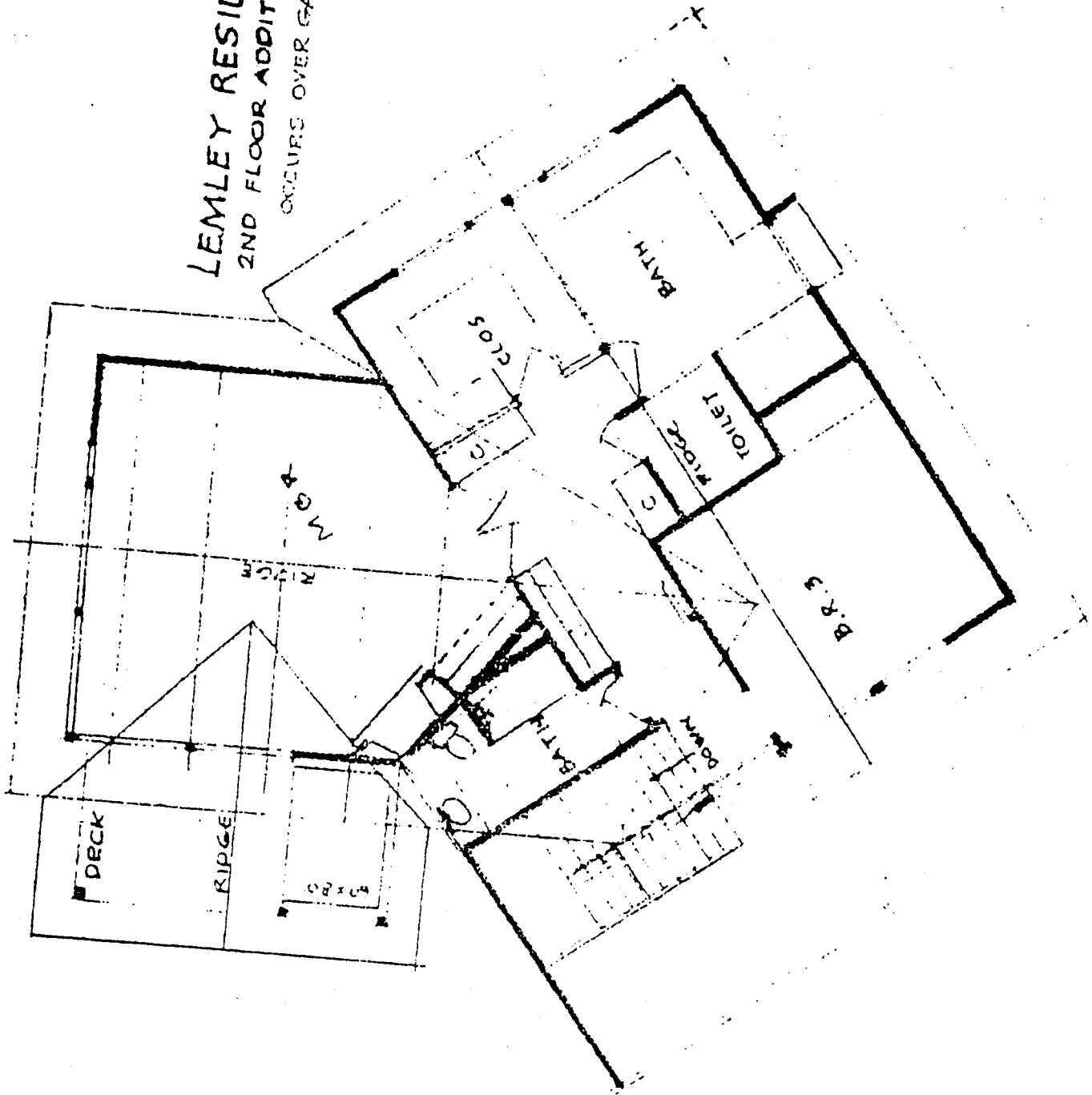
**APPLICATION NO.**  
A-1-MEN-02-157  
A-1-MEN-02-158  
ORIGINALLY APPROVED  
HOUSE PLANS (1 of 6)

**PLOT PLAN**  
RENOVATION TO LEMLEY RESIDENCE  
118 ST. MENDOCINO A.P. 119-060-26  
118.35'

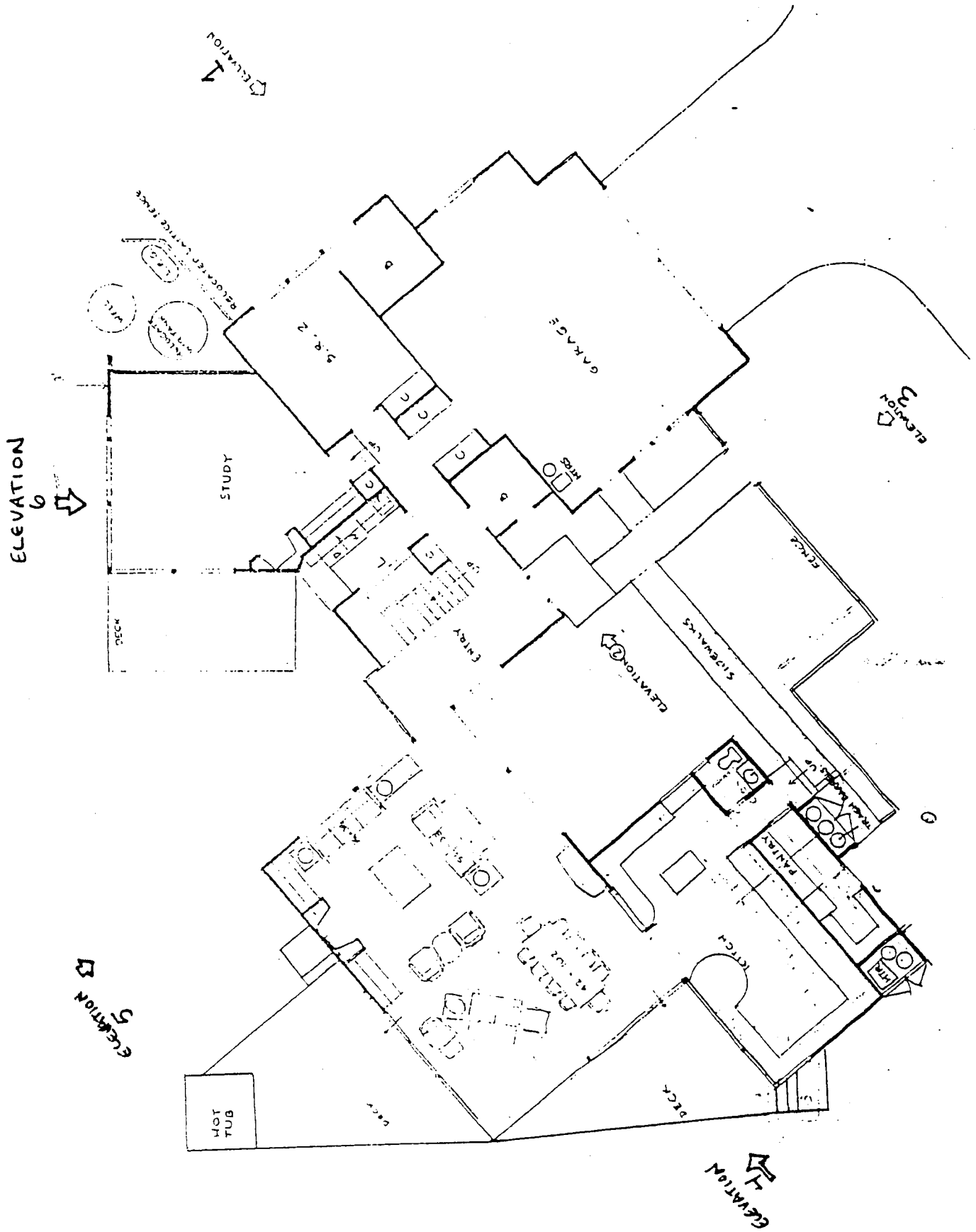
5-1-01

**LEMLEY RESIDENCE  
2ND FLOOR ADDITION**

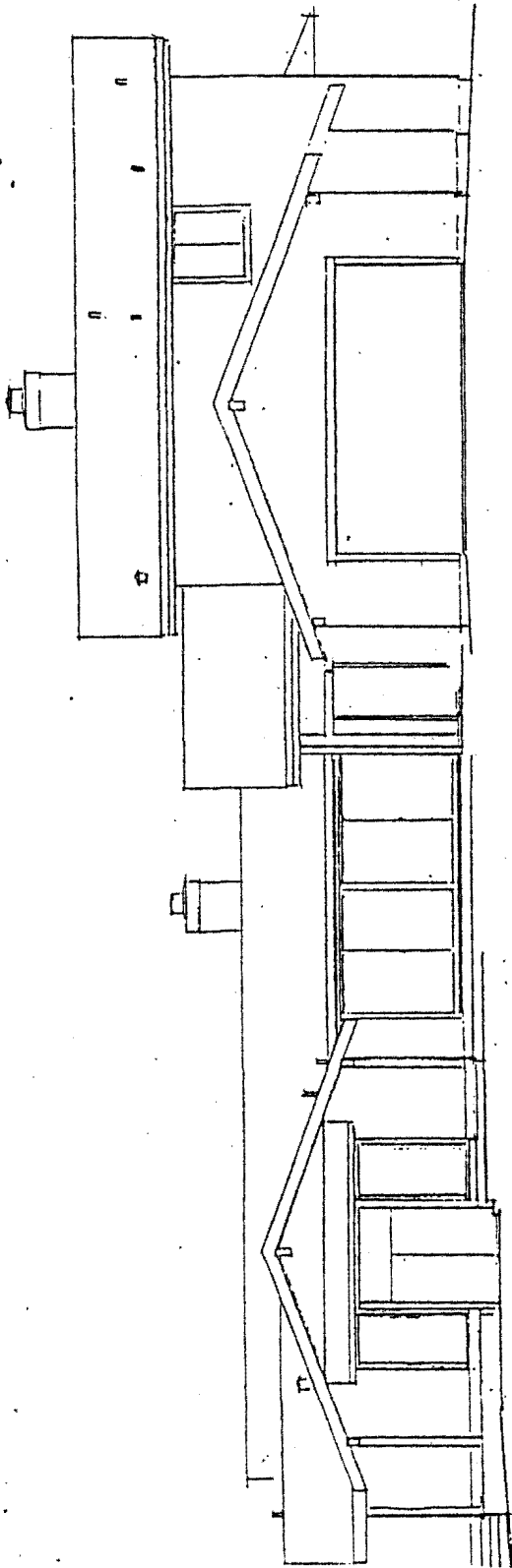
OCCURS OVER GARAGE; B.R.2; STUDY



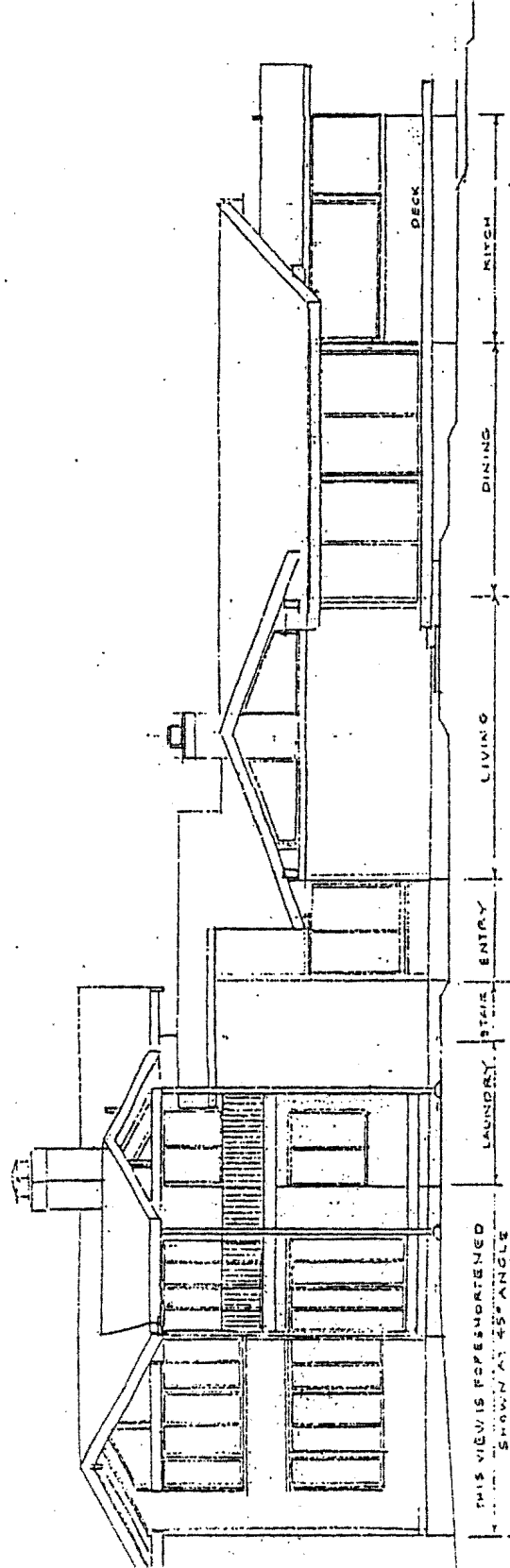




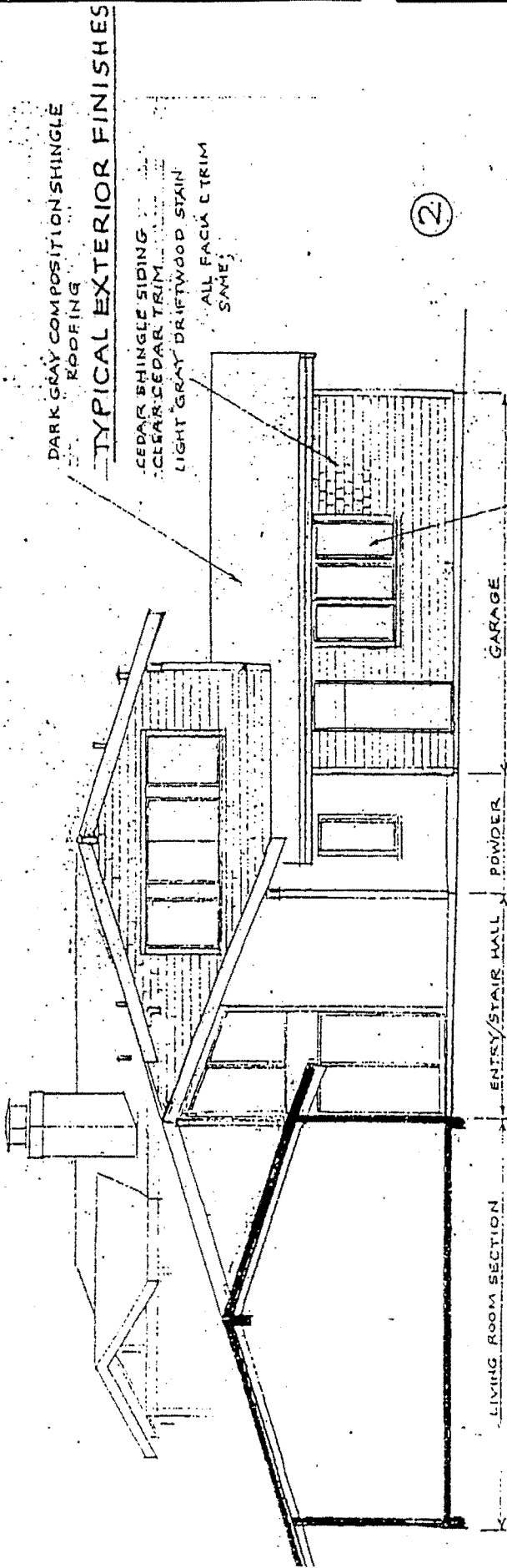
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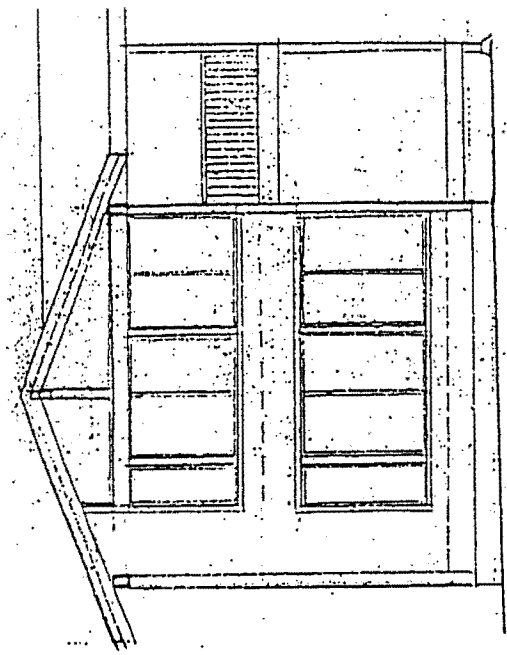
LEMLEY ELEVATION 3



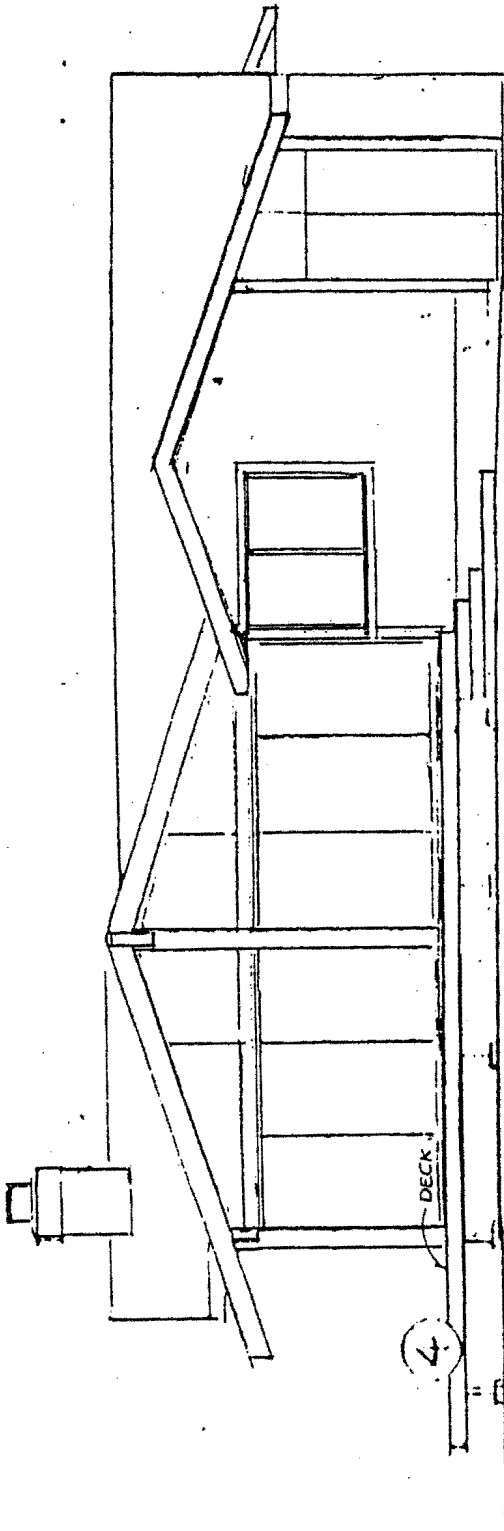
LEMLEY ELEVATION 5



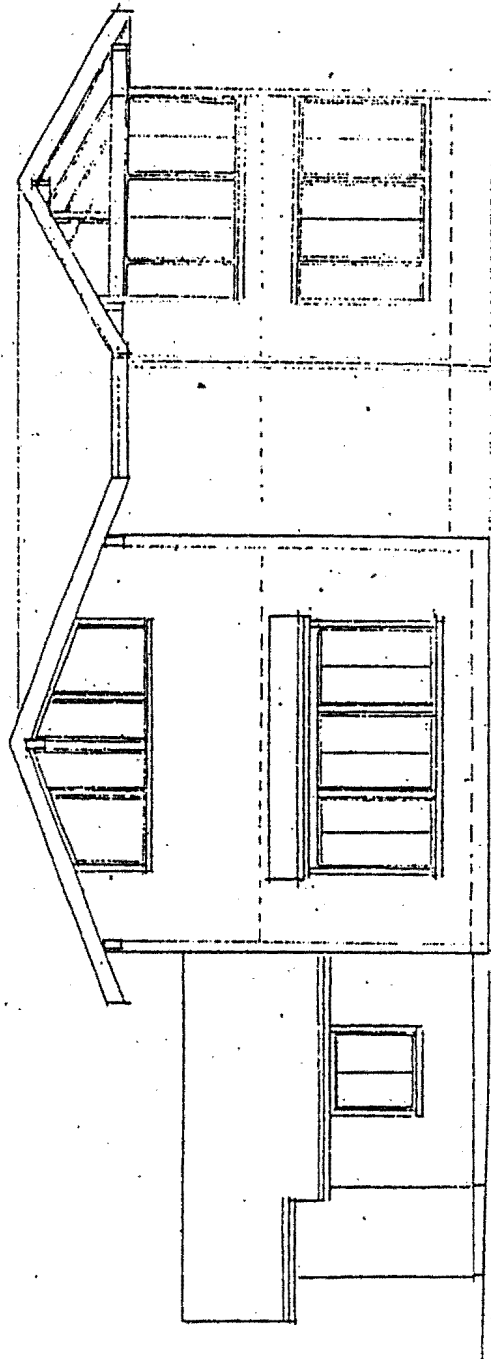
LEMLEY ELEVATION 2



ELEVATION 6



ELEVATION 4



ELEVATION 1

THIS VIEW IS FORESHORTENED  
SEEN AT 45° ANGLE

LEMLEY ELEVATIONS

STAFF REPORT FOR  
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 67-00  
May 24, 2001  
CPA-5

7. The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and Coastal Element of the General Plan.

STANDARD CONDITIONS:

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

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

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

|                     |
|---------------------|
| EXHIBIT NO. 5       |
| APPLICATION NO.     |
| A-1-MEN-02-157      |
| A-1-MEN-02-158      |
| CDP #67-10          |
| CONDITIONS (1 of 3) |

STAFF REPORT FOR  
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 67-00  
May 24, 2001  
CPA-6

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

**SPECIAL CONDITIONS:**

1. All recommendations from the geological report prepared by BACE Geotechnical dated January 23, 2001, shall be incorporated into the design and construction of the residential remodel and additions. Prior to construction, BACE shall review the final grading, drainage and building plans for conformance with their recommendations. During construction, BACE shall observe the structure foundation excavations and drilled pier installations while the applicable operations are being performed.
2. Prior to the issuance of the Coastal Development Permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Coastal Permit Administrator which shall provide that:
  - a) The landowner understands that the site may be subject to extraordinary geologic and erosion hazards and the landowner assumes the risk from such hazards;
  - b) The landowner agrees to indemnify and hold harmless the County of Mendocino, its successors in interest, advisors, officers, agents and employees against any and all claims, demands, damages, costs, and expenses of liability (including without limitation attorneys' fees and costs of the suit) arising out of the design, construction, operation, maintenance, existence or failure of the permitted project. Including, without limitation, all claims made by any individual or entity or arising out of any work performed in connection with the permitted project;
  - c) The landowner agrees that any adverse impacts to the property caused by the permitted project shall be fully the responsibility of the applicant;
  - d) The landowner shall not construct any bluff or shoreline protective devices to protect the subject single-family residence, garage, septic system, or other improvements in the event that these structures are subject to damage, or other erosional hazards in the future;
  - e) The landowner shall remove the house and its foundation when bluff retreat reaches the point where the structure is threatened. In the event that portions of the house, garage, foundations, leach field, septic tank, or other improvements

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STAFF REPORT FOR  
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 67-00  
May 24, 2001  
CPA-7

associated with the residence fall to the beach before they can be removed from the blufftop, the landowner shall remove all recoverable debris associated with these structures from the beach and ocean and lawfully dispose of the material in an approved disposal site. The landowners shall bear all costs associated with such removal;

- f) The document shall run with the land, bind all successors and assigns, and shall be recorded free of all prior liens and encumbrances, except for tax liens.
3. The applicant shall install the landscape plan dated April 25, 2001 prior to occupancy or receiving the final building inspection, whichever comes first. All required landscaping shall be irrigated, staked, maintained, and replaced, as necessary, to ensure that a vegetative screen is established and maintained in perpetuity. Any future tree removal on the site shall require prior authorization from the Planning Division or, if it constitutes "major vegetation removal," shall require a coastal development permit.
4. All exterior building materials and finishes shall match those specified in the coastal development permit application. Windows shall be made of non-reflective glass. Any change in approved colors or materials shall be subject to the review and approval of the Coastal Permit Administrator for the life of the project.

Staff Report Prepared By:

MAY 11, 2001

Date

*Rick Miller*

Rick Miller  
Coastal Planner

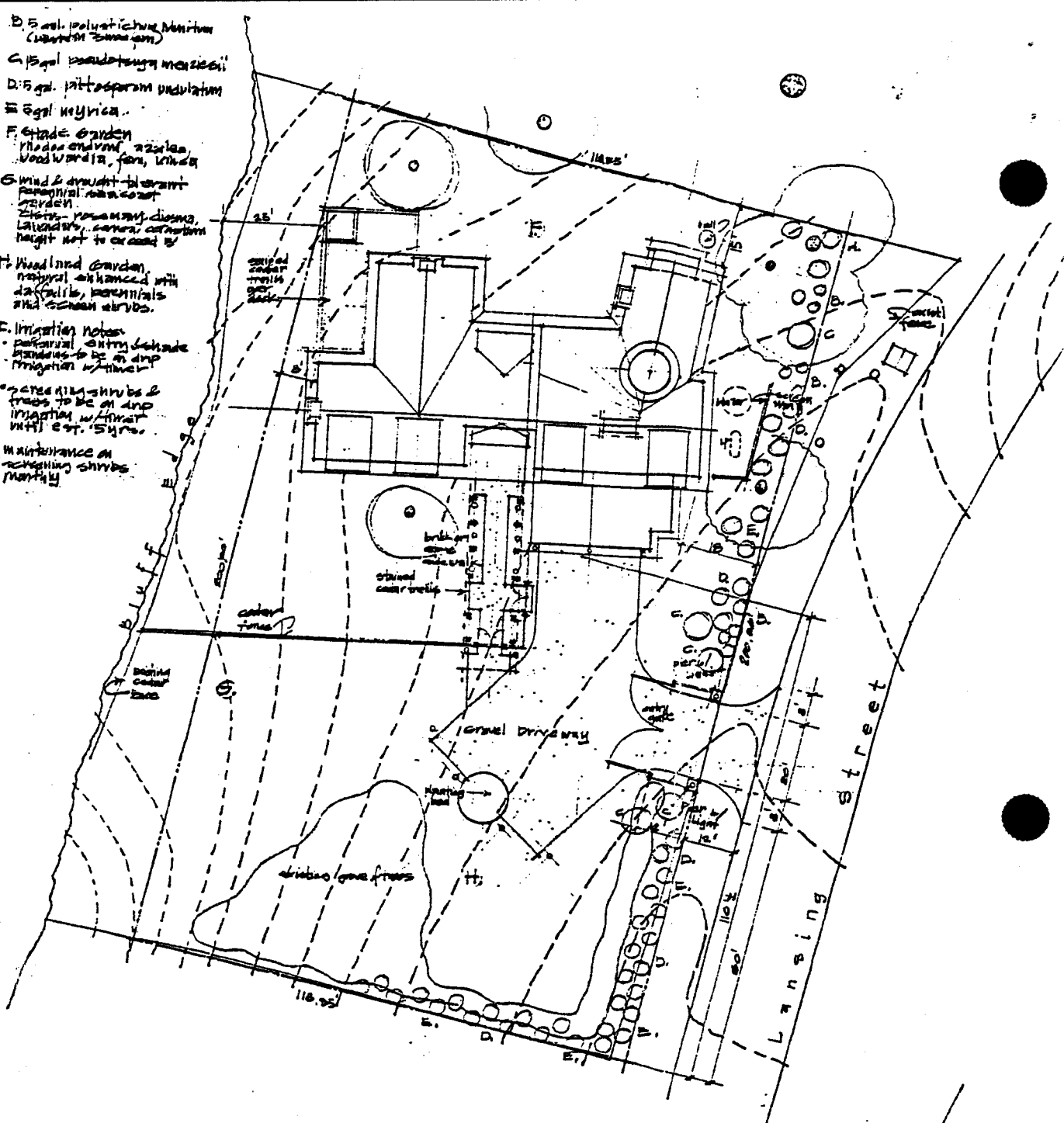
Attachments: Exhibit A- Location Map  
Exhibit B- Site Plan  
Exhibit C- Floor Plan  
Exhibit D- Floor Plan  
Exhibit E- Elevation  
Exhibit F- Elevation  
Exhibit G- Elevation

Appeal Period: 10 days

Appeal Fee: \$555

3 of 3

- D: 5 gal. Polyatichia Nuttiana (Lambert) Swartz
- C: 5 gal. Pseudotsuga menziesii
- D: 5 gal. Pittosporum undulatum
- E: 5 gal. Weibullia
- F: Shade Garden  
Platanus, azalea, Woodwardia, fern, Vinca
- G: Wind & drought resistant Perennial, rock coast garden  
Shrub - rosemary, diosma, Lavender, clematis, catnip  
height not to exceed 5'
- H: Woodland Garden, natural enhanced with Juncus, perennials and screen shrubs.
- I: Irrigation Notes  
- perennials extra shade gardens to be on drip irrigation w/ timer  
- trees & shrubs & trees to be on drip irrigation w/ timer with est. 5 gpm  
- maintenance on screening shrubs monthly



- Site and Landscaping Plan, 1"=10'-0"
- Notes:
  1. All exterior lighting is to be downcast and shielded - see spec sheets
  2. Lights to be fully tested and equipped - see notes
  3. All dimensions to be field verified

• Site and Building Square Foot Calculations

|                           |               |                  |
|---------------------------|---------------|------------------|
| • Site Area               | 116.5 x 200.0 | = 23,300 sq. ft. |
| • Allowable site coverage | 20% of 23,300 | = 4,660 sq. ft.  |
| • Actual site coverage    |               |                  |
| Footprint                 | 3,820         | sq. ft.          |
| Driveway                  | 48            | sq. ft.          |
| Side Walk                 | 252           | sq. ft.          |
| Deck                      | 202           | sq. ft.          |
| total                     | 4,322         | sq. ft.          |

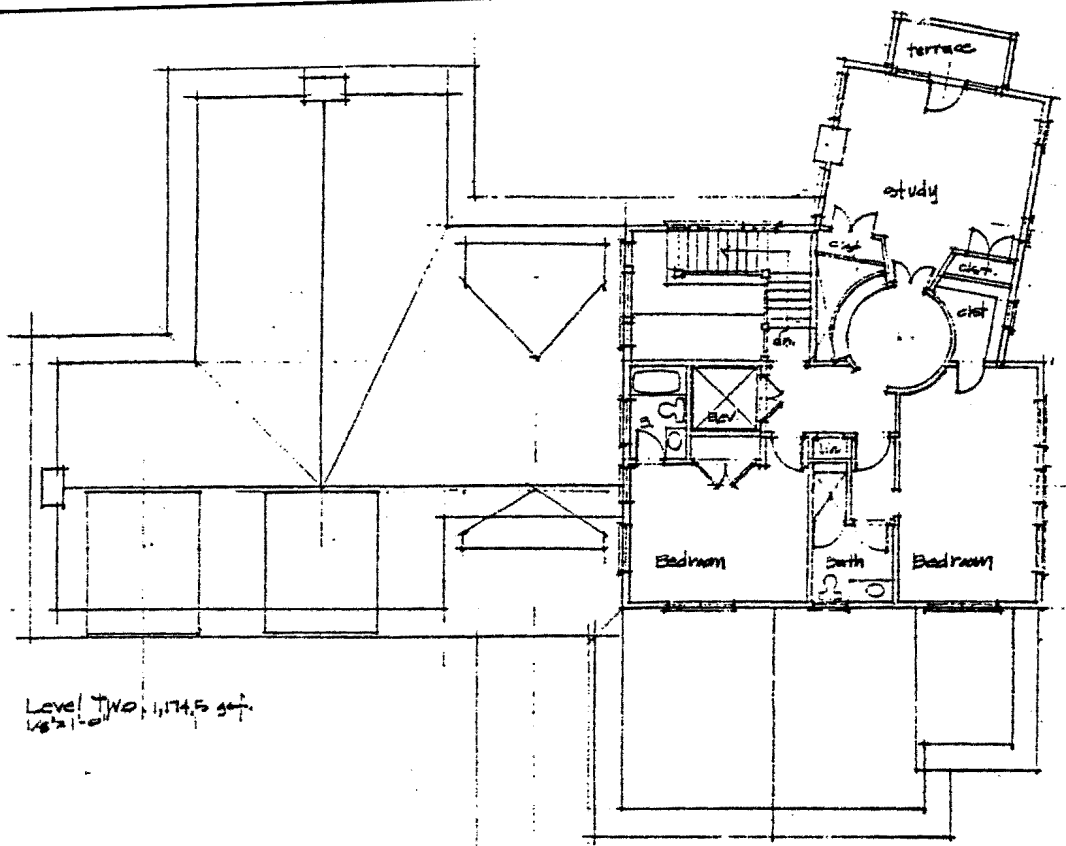
|                 |          |         |                                   |
|-----------------|----------|---------|-----------------------------------|
| • Building Area |          |         | 14 Feb 21 submittal 4,321 sq. ft. |
| Level One       | 2,927.56 | sq. ft. |                                   |
| Garage          | 740.36   | sq. ft. |                                   |
| Level Two       | 1,174.56 | sq. ft. |                                   |
| total           | 4,851    | sq. ft. | 14 Feb 21 submittal 4,351 sq. ft. |

EXHIBIT NO. 6  
 APPLICATION NO.  
 A-1-MEN-02-157  
 A-1-MEN-02-158  
 APPROVED AMENDMENT  
 HOUSE PLANS (1 OF 4)

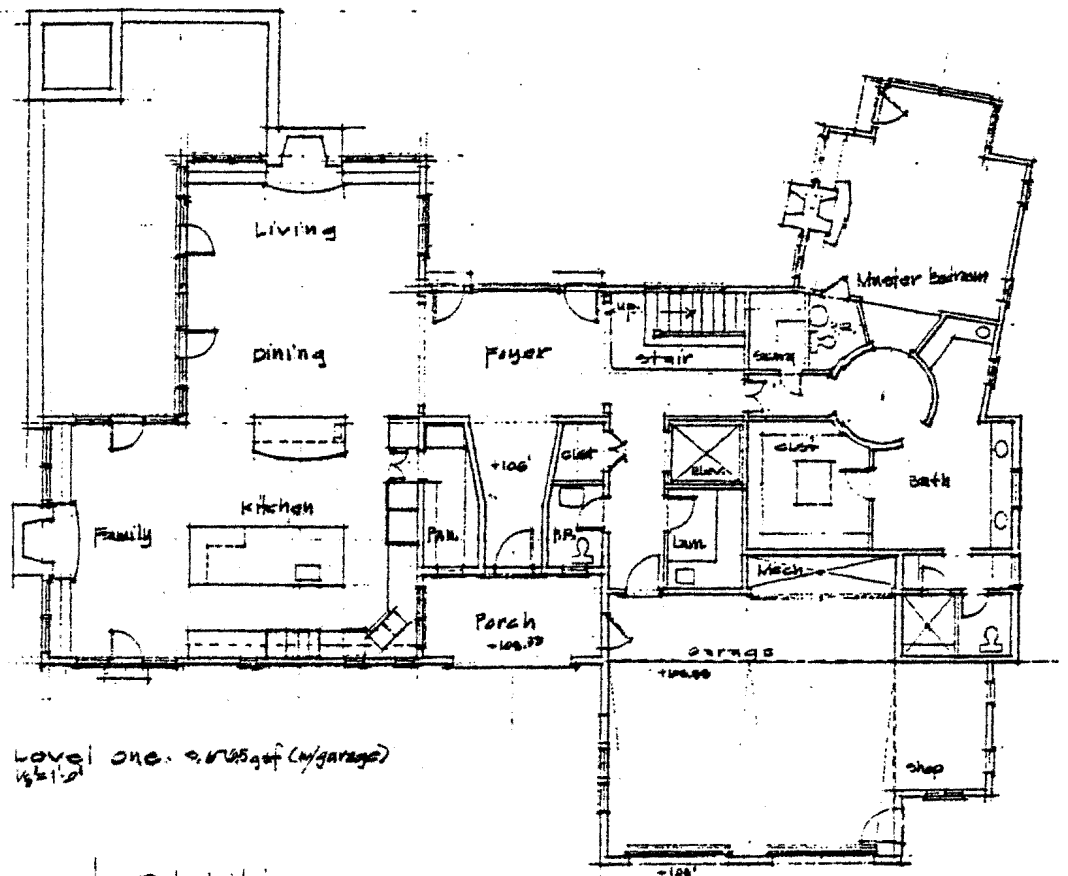
• LEMLEY RESIDENCE.  
 11650 Lansing Street Mendocino, CA. 119,000.20.

• Site Plan and Floor Plans.





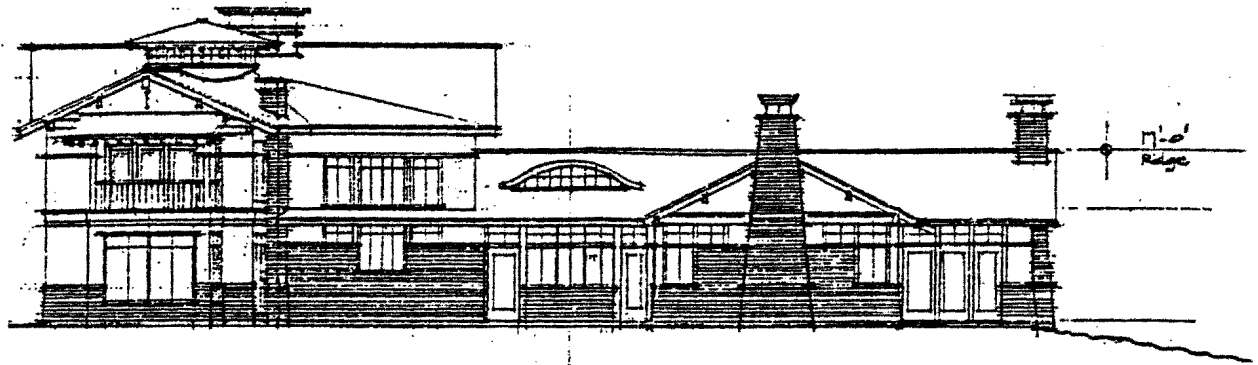
Level Two: 1,174.5 sqft  
1/2 x 1/2



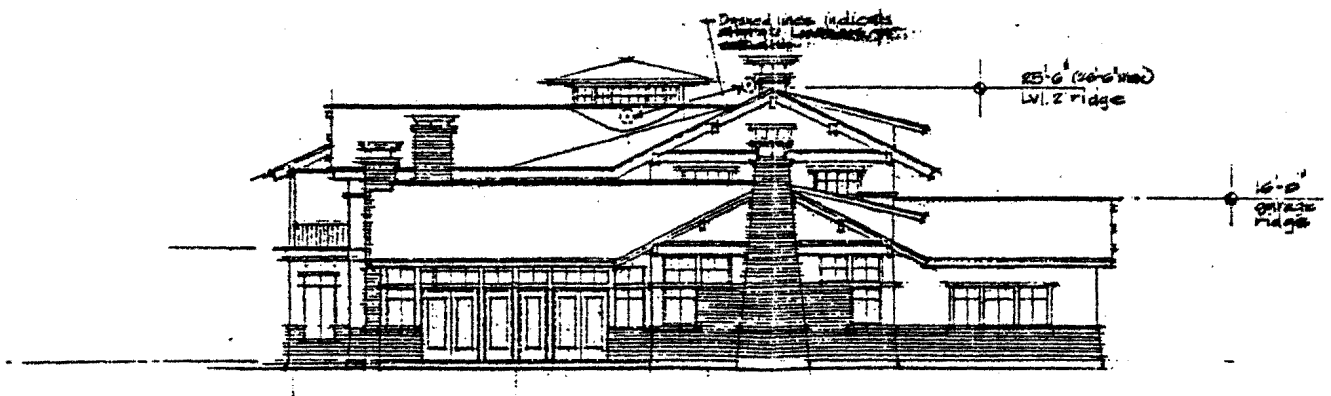
Level One: 2,628 sqft (w/garage)  
1/2 x 1/2

Diamond Phillips  
10 December, 2001

2 of 4



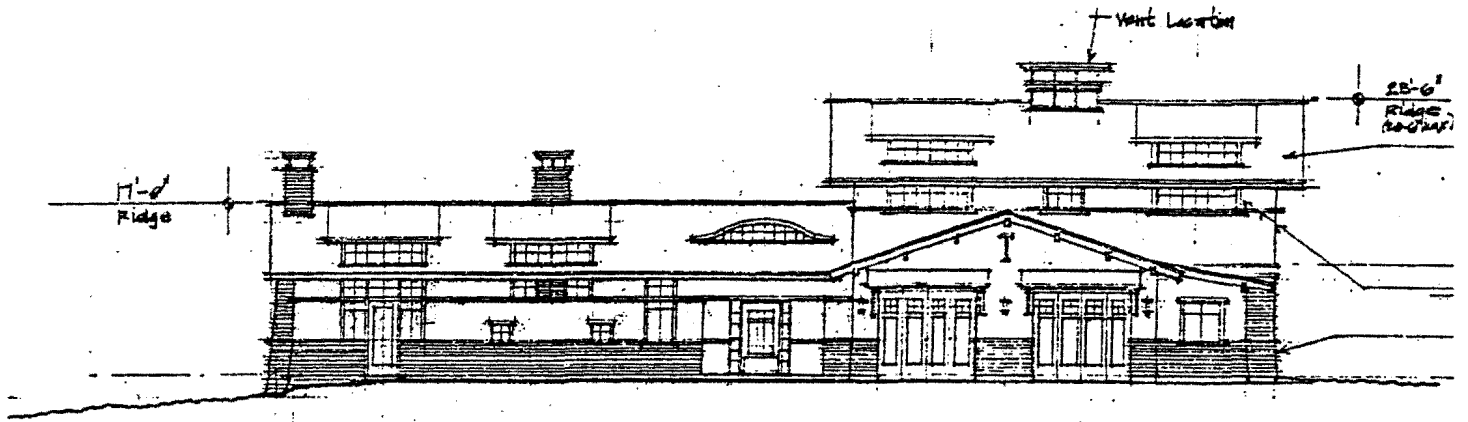
North Elevation 106' - 10"



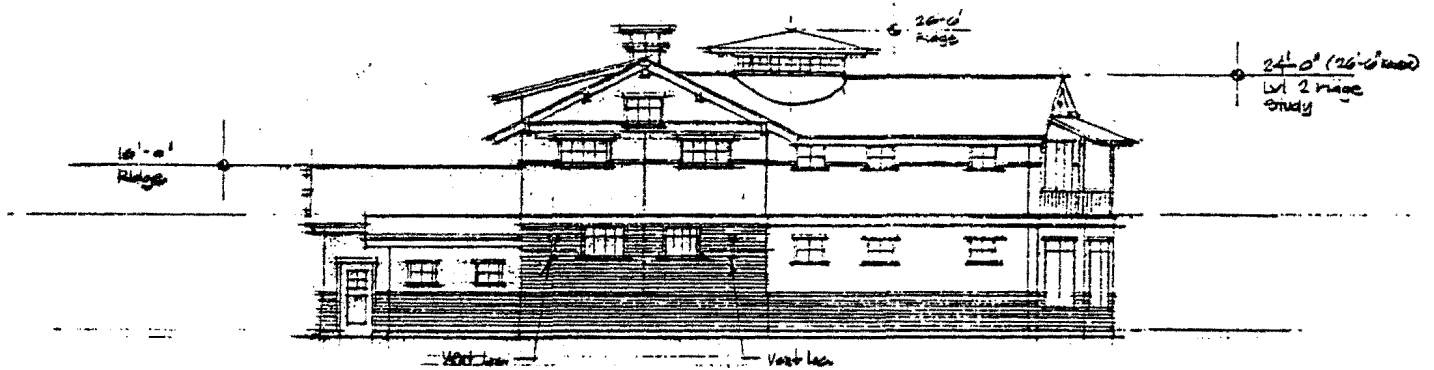
West Elevation 126' - 10"

LEMLEY RESIDENCE exterior Elevations  
 11050 Lansing Street Mendocino, CA. 119.00026.00 VHRB 01-62, 01-70, 00-25

3094



South Elevation 1/25/02



West Elevation 1/25/02

Diamond Phillips  
 10 December, 2001 / REV 14 JANUARY, 2002

4 of 4



RAYMOND HALL  
DIRECTOR

COUNTY OF MENDOCINO  
DEPARTMENT OF PLANNING AND BUILDING SERVICES

TELEPHONE  
(707) 964-5378

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

FAX:  
961-2427

DATE: March 14, 2002

SUBJECT: Coastal Development Permit #CDP 67-00(M)

Granted to John and Nit Lemley for remodel and addition to an existing 3 bedroom 2,486 ± sq. ft. single family residence. The remodel includes a second story addition with a maximum height of approximately 26'6" feet above grade. The proposed addition would result in a 3-bedroom, 4,851 ± sq. ft. residence. It is located at in the town of Mendocino, on the W side of Highway One, on the W side of Lansing Street (CR# 500), approximately 300 feet N of its intersection with Heeser Drive (CR# 407ff), on a blufftop parcel at 11050 Lansing Street (APN 119-060-26). It has been amended to include the following changes:

1. The main N-S axis of the house will be rotated 27 degrees clockwise.
2. Change the window configuration to reduce the glass area by approximately 50%.
3. Change the style of architecture from a "contemporary" to an "arts and crafts" design which includes the use of iron-spot brick wainscot, dark olive-brown cedar siding and shingles and charcoal-colored composition roof shingles.

The amendment was determined by the Coastal Permit Administrator to be immaterial, was duly noticed, and the objections received did not constitute the need for a new hearing and/or special conditions.

This amendment will become effective upon return of a signed copy of this form to this office. Please note that all original permit conditions are still in effect.

*Doug Zanini for DZ*

Doug Zanini, Coastal Permit Administrator

*3-14-02*

Date

ACKNOWLEDGMENT: I have read and understand the above amendment and agree to be bound by its conditions and the remaining conditions of Coastal Development Permit Number #CDP 67-00.

*[Handwritten Signature]*

Signature

*3-19-02*

Date

|                  |
|------------------|
| EXHIBIT NO. 7    |
| APPLICATION NO.  |
| A-1-MEN-02-157   |
| A-1-MEN-02-158   |
| LEMLEY           |
| PERMIT AMENDMENT |

## CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE

MAILING ADDRESS:

710 E STREET • SUITE 200

P. O. BOX 4908

EUREKA, CA 95501-1865

EUREKA, CA 95502-4908

VOICE (707) 445-7833

FACSIMILE (707) 445-7877



October 21, 2002

|                    |
|--------------------|
| EXHIBIT NO. 8      |
| APPLICATION NO.    |
| A-1-MEN-02-157     |
| A-1-MEN-02-158     |
| COMMISSION ACTION  |
| DISPUTE RESOLUTION |
| (1 of 2)           |

Ray Hall, Director  
 County of Mendocino  
 Department of Planning and Building  
 501 Low Gap Road, Room 1440  
 Ukiah, CA 95482

SUBJECT: Coastal Commission Action on Procedures 1-02-1-EDD and 1-02-2-EDD  
 Concerning County Approval of Residential Development at 11050  
 Lansing Street in the Town of Mendocino (Lemley)

Dear Ray:

I am writing to inform you of the Commission's actions on the above referenced matters at the Commission meeting of October 9, 2002 in Eureka. By unanimous votes, the Commission upheld the Executive Director's determinations that: (1) the County's approval of the immaterial amendment of CDP 67-00 (CDP Amendment 67-00(M)) granted to John and Nit Lemley constitutes an action on a coastal development permit appealable to the Commission and that a valid notice of final local action for this action on the coastal development permit for appealable development must be submitted and an appeal period opened; and (2) the notice of final local action submitted by the County for any total demolition purportedly authorized by approval of Coastal Development Permit No. 67-00 is invalid and a new notice of final local action that includes reference to the complete demolition of the original structure must be submitted so that an appeal period can be opened for this appealable development. A copy of the adopted findings (original staff report) is attached.

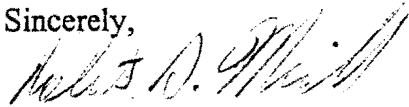
Consequently, the Executive Director hereby requests that the County submit to the North Coast District Office of the Coastal Commission within 30 days of receipt of this notice (1) a valid notice of final local action for CDP Amendment 67-00(M), and (2) a valid notice of final local action for the complete demolition of the original structure. Both notices must meet the requirements of Section 13571 of the Commission's regulations and Section 20.720.045 of the Mendocino Town Zoning Code and indicate the procedures for appeal of the local decisions to the Coastal Commission.

Please be advised that if within 30 days of receipt of this letter the County fails to issue the notices of final local action indicating that the County's actions are appealable to the Commission, the Executive Director will consider such failure as Final Notice of County Action and will initiate the coastal development permit appeal process.

Please note that as discussed in the enclosed copy of the staff report, before the County's actions on the permit amendment and the total demolition of the original structure on the site can be considered effective, the requested valid notices of final local action must be submitted and any appeals of the appealable development must be processed.

Thank you for your cooperation in this matter. As we discussed in our phone conversation on October 9 after the hearing, we would also like to meet with you or your staff to discuss procedures for submittal of notices of final local actions for future coastal development permit amendments for other projects in appealable areas of the coastal zone. We will call you to arrange such a meeting.

Sincerely,



ROBERT S. MERRILL  
North Coast District Manager

Enclosure

cc: John and Nit Lemley  
Gary Giacomini, Hanson Bridgett  
Doug Zanini, Mendocino County Planning and Building, Fort Bragg Office

2 of 2

RECEIVED

## CALIFORNIA COASTAL COMMISSION

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

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

DEC 09 2002



PLANNING & BUILDING SERV  
FORT BRAGG CA

December 5, 2002

Doug Zanini  
County of Mendocino  
Department of Planning and Building  
790 South Franklin Street  
Fort Bragg, CA 95437

SUBJECT: Notice of Appeal Periods for Mendocino County Actions to Approve Residential Development at 11050 Lansing Street in the Town of Mendocino (Lemley)

Dear Doug:

The enclosed two Notices of Appeal Period are for the Lemley development at 11050 Lansing Street in the Town of Mendocino which was the subject of two Coastal Commission dispute resolution hearings on October 9, 2002 in Eureka.

As we informed your department in our letter to Ray Hall dated October 21, 2002, the Commission determined at the October 9, 2002 meeting that: (1) the County's approval of the immaterial amendment of CDP 67-00 (CDP Amendment 67-00(M)) granted to John and Nit Lemley constitutes an action on a coastal development permit appealable to the Commission for which an appeal period must be opened; and (2) an appeal period for County approval of the total demolition of the previously existing house on the parcel must also be opened. Our letter requested that the County submit valid notices of final local action for the two actions and stated that if within 30 days of receipt of our letter the County failed to issue the notices of final local action, the Executive Director would consider such failure as Final Notice of County Action and would initiate the coastal development permit appeal process. To date, the Commission has not received the requested Notices of Final Local Action. As 30 days have passed since County receipt of our letter, we are providing notice that the appeal period has opened.

If you have any questions, please call.

Sincerely,

ROBERT S. MERRILL  
North Coast District Manager

|                                  |
|----------------------------------|
| EXHIBIT NO. 9                    |
| APPLICATION NO.                  |
| A-1-MEN-02-157                   |
| A-1-MEN-02-158                   |
| NOTIFICATION OF<br>APPEAL PERIOD |
| (1 of 3)                         |

Enclosure

cc: John and Nit Lemley  
Gary Giacomini, Hanson Bridgett  
Ray Hall, Director, Mendocino County Planning and Building Department

## CALIFORNIA COASTAL COMMISSION

WEST COAST DISTRICT OFFICE  
E STREET, SUITE 200  
REKA, CA 95501  
(707) 445-7833

**NOTIFICATION OF APPEAL PERIOD**

**DATE:** December 5, 2002  
**TO:** Doug Zanini, Project Coordinator  
County of Mendocino, Department of Planning and Building Services  
790 South Franklin Street  
Fort Bragg, CA 95437  
**FROM:** Robert Merrill, District Manager  
*Robert D. Merrill*  
**RE:** Application No. 1-MEN-02-384

Please be advised that on November 22, 2002 our office received notice of local action on the coastal development permit described below:

**Local Permit #:**

**Applicant(s):** John & Nit Lemley

**Description:** Demolish an existing residence and establish the location of the new single family residence to be constructed on the parcel.

**Location:** 11050 Lansing Street, Mendocino (Mendocino County) (APN(s) 119-060-26)

Unless an appeal is filed with the Coastal Commission, the action will become final at the end of the Commission appeal period. The appeal period will end at 5:00 PM on December 10, 2002.

Our office will notify you if an appeal is filed.

If you have any questions, please contact me at the address and telephone number shown above.

cc: John & Nit Lemley

2 of 3



## CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE  
740 E STREET, SUITE 200  
EUREKA, CA 95501  
(707) 445-7833



## NOTIFICATION OF APPEAL PERIOD

DATE: December 5, 2002  
TO: Doug Zanini, Project Coordinator  
County of Mendocino, Department of Planning and Building Services  
790 South Franklin Street  
Fort Bragg, CA 95437  
FROM: Robert Merrill, District Manager  
RE: *Robert D. Merrill*  
Application No. 1-MEN-02-385

Please be advised that on November 22, 2002 our office received notice of local action on the coastal development permit described below:

Local Permit #: CDP 67-00(M)

Applicant(s): John & Nit Lemley

Description: Modify previously approved development to rotate the main north-south axis of the house 27 degrees clockwise, change window configuration to reduce the glass area by approximately 50%, change the style of architecture from a "contemporary" to an "arts and crafts" design which includes the use of iron-spot brick wainscot, dark olive-brown cedar siding and shingles and charcoal-colored composition roof shingles.

Location: 11050 Lansing Street, Mendocino (Mendocino County) (APN(s) 119-060-26)

Unless an appeal is filed with the Coastal Commission, the action will become final at the end of the Commission appeal period. The appeal period will end at 5:00 PM on December 10, 2002.

Our office will notify you if an appeal is filed.

If you have any questions, please contact me at the address and telephone number shown above.

cc: John & Nit Lemley

343

December 7, 2002

RECEIVED

Robert Merrill  
California Coastal Commission  
710 E St. - suite 200  
Eureka, CA 95501

DEC 09 2002  
CALIFORNIA  
COASTAL COMMISSION

Dear Mr. Merrill: RE : Application No. 1-MEN-02-384

Please add an appeal on the above to my previous appeal Dated May 9, 2002 regarding CDP 67-00(M) -Application #1-MEN-02-385.

The written record used for the granting of CDP 67-00 contains no indication, written or oral, that the house was to be totally demolished. If it had, I and others would have appealed to the Coastal Commission and it is my firm belief that if total demolition, instead of remodel, had been proposed in the Oct, 2000 MHRB meeting, the project would not have been approved. Up to that point MHRB had never approved demolition of a primary structure and rarely of a secondary structure. Since CDP 67-00(M) was based on an illusionary determination (long after the fact) by county staff that CDP 67-00 contained implicit total demolition and that MHRB had voted twice (unknown to them) for total demolition, the house could be demolished regardless of the February 4, 2002 vote.

As of my appeal of May 9, 2002 the one story house was standing. As of Robert Merrill's letter of May 15, the house was still standing. The wrecking began May 20 and as of May 24 the house was no longer there.

The county cannot claim something is 'implicit' when there is absolutely no basis for that determination. Hence, the Notice of Final Action on CDP 67-00 is completely false in claiming total demolition is implicit and CDP 67-00 should be denied approval.

Thank you,

Joan Curry  
PO Box 457, Mendocino, CA 95460

EXHIBIT NO. 10

APPLICATION NO.

A-1-MEN-02-157

A-1-MEN-02-158

CURRY APPEAL

(1 of 8)

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE  
710 E STREET - SUITE 200  
EUREKA, CA 95501-1865  
VOICE (707) 445-7822  
FACSIMILE (707) 446-7877

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

APPEAL FROM COASTAL PERMIT  
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

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

Joan Cury  
PO Box 4571  
Mendocino Ca 95460 (707) 937-1649  
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: Mendocino County

2. Brief description of development being appealed: CDA #67-00(m)

3. Development's location (street address, assessor's parcel no., cross street, etc.): 11250 Larsine St, Mendocino  
AP# 119-060-26

4. Description of decision being appealed:

a. Approval; no special conditions: ✓

b. Approval with special conditions: \_\_\_\_\_

c. Denial: \_\_\_\_\_

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-1-MEN-02-158

DATE FILED: 12/9/02

DISTRICT: North Coast

HS: 4/88

2 of 8

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: March 14, 2012

7. Local government's file number (if any): CDP 67-00(m)

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:

John A. Lemley  
7020 South Monica Cove  
Sancti Lake, UT 84121

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) LEONARD DILL  
P.O. Box 790  
MENDOCINO, CA 95460
- (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.)

Coastal Act 30251 "scenic & visual qualities of coastal areas shall be considered & protected as a resource of public importance."  
The proposed project is almost twice as large as adjacent properties.  
It will be particularly objectional from the Mendocino Headlands State Park.  
It is not consistent with Mendocino County Zoning Code, Town of Mendocino Sec 20 720 040, 045, 055  
(see attachment)

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.

  
\_\_\_\_\_  
Signature of Appellant(s) or  
Authorized Agent

Date May 9 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.

4 of 8  
\_\_\_\_\_  
Signature of Appellant(s)

Date \_\_\_\_\_

LACK OF CONSISTENCY WITH MENDOCINO COUNTY ZONING CODE, TOWN OF MENDOCINO Sections 20.720.040, 045, 055:

Referenced sections deal with coastal permits and amendments.

CDP #67-00 July 2, 2001

Remodel and add to an existing 3 bedroom 2481 +- square foot single family residence. The remodel includes a second story addition with a maximum height of approximately 26'6" above grade. The proposed addition would result in a 3 bedroom, 4851 +- square foot residence.

CDP 67-00 (M) March 14, 2002

As above with amendment:

1. The main N-S axis of the house will be rotated 27 degrees clockwise.
2. Change the window configuration to reduce the glass area by approximately 50%.

Change the style of architecture from a "contemporary" to an "arts and crafts" design which includes the use of iron-spot brick wainscot, dark olive-brown cedar siding and shingles and charcoal-colored composition room singles.

How can a totally new design, rotated 27 degrees clockwise be considered an 'immaterial' change? There should be a new CDP hearing which would expose the fraud perpetrated on the MHRB that they had voted twice previously for demolition. Nowhere in the records is there a mention, or discussion or vote on demolition until the January 7, 2002 MHRB Agenda and description on the 4th of 8 lines, line 1 of which still begins with 'remodel'.

This new revelation caused a continuance until the February 4, 2002 MHRB meeting in which the project description begins "Revised Project Description Demolish an existing 2486+- square foot ---". A member of MHRB asked staff if they (Lemleys) could still receive a demolition permit if MHRB voted against the new project. Staff replied 'yes'. (note demolition not in original CDP) Consequently the vote was 3-2 for the new structure which included demolition for the 1st time.

The Commission should note the structure is now (as a single story dwelling) and once demolished and rebuilt as a 2 story structure, 25' from the bluff edge. Note the adjacent house is in danger of imminent collapse into the sea. Given the vagaries of wind, tides and roiling seas which are predicted to continue, a geotechnical report which does not consider these conditions and a rising sea as a result of climate changes, is subject to questioning.

6 of 8

March 5, 2002

TO: Department of Planning and Building  
County of Mendocino  
Attn: Rick Miller

FROM: Joan Curry

SUBJECT: Coastal Development Permit #CDP 67-00(M)

Since the February 4, 2002 presentation by the Lemleys before MHRB was for a totally new project it cannot be considered as 'immaterial' changes to the original CDP. New design, new orientation and 1st time presentation of total demolition all require a new CDP with public input and correction of the findings for the original CDP permit.

Remodel, not demolition, has always been the presentation. Remodel does not equal demolition. The devious presentation of this project in itself is more than material reason for requiring a new CDP.

Very truly yours,

Joan Curry  
PO Box 457  
Mendocino, CA 95460

enc. Anatomy of a Travesty

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## ANATOMY OF A TRAVESTY

itor,

On February 4, the Mendocino Historical Review Board (MHRB) gave approval to a revised design on the Lemly project on Lansing St. overlooking the Headlands.

This had first come before the MHRB October 2, 2000. The Notice of Public Hearing listed "remodel and add to an existing 2486 sq. ft. single story, single family residence." The remodel would be 4851 sq. ft., including a second story

There was some opposition from the neighbors and members of the audience about the large size for the site but the MHRB approved it 3-1. The MHRB is given supplemental information to that in the Notice of Public Hearing (which is supposed to give enough information to the public to decide if they wish to comment) and that supplemental information listed 10 items to consider:

#1 was remodel, #9 "Purpose of Demolition, Remodeling and Addition is to modernize the present kitchen and bath, to relocate certain rooms so as to optimize plan efficiency and take advantage of ocean views; to enlarge spaces which are currently inadequate to provide spaces for activities for which there is no presently existing space."

The MHRB motion of approval and the subsequent MHRB permit grants permission to remodel. Demolish is never mentioned.

In April, 2001 the project came back for some minor changes which were approved 5-0. The discussion at that time indicated since the size was the same as previously approved and could not be changed, the modifications requested were immaterial. Again, the MHRB motion of approval and the MHRB permit had no mention of demolition.

The May 24 staff report for the Coastal Development Permit states "Some demolition of the existing residence would be required to accomplish the proposed project." Notice — some demolition — not complete demolition which the Lemlys and staff claim MHRB approved on both previous applications since it appeared on the application as #9 of #10 requests. #1 was always remodel. How does one remodel something no longer there??

The MHRB learned that the intention all along was for complete demolition when the Lemlys returned in January 2002 with a totally new design and new architect. This was the first time demolition had been articulated at any of the meetings, in any of the votes, in any of the MHRB permits, or in the report for the CDP.

The application was continued until February with the warning from the Lemlys that since MHRB had approved the first design twice, in October and April, they could build that design if they chose. Since they had returned with a totally different design and architect it is hardly likely they would build the first design, but that threat worked and the new design was approved 3-2.

There are now 2 options for the public — a \$600 appeal to the Board of Supervisors, or an insistence that Planning initiate a new CDP so that the new project can have accurate and total public review rather than, as planned, as amendment to the July, 2001 CDP issued for a project completely different than the current one. An amendment is used when no substantial alteration is proposed — how can a totally different design not be substantial change?

I urge you to call or write planning to ensure a new CDP hearing and save MHRB and the Town of Mendocino from further obfuscation in presentation by applicants of proposed projects. Cite Sec. 20.720.055 (A) "Definition of Permit Amendment" in the Mendocino County Zoning Code, Town Of Mendocino as the authority for requesting a new CDP hearing for essentially a new project.

Planning: Doug Zanini, Senior Planner — Tel: 964-5379; 790 S. Franklin St., Fort Bragg CA 95437

8 of 8



Dr. Hillary Adams  
P. O. Box 1936  
Mendocino, California 95460

RECEIVED

DEC 09 2002

December 6, 2002

CALIFORNIA  
COASTAL COMMISSION

Mr. Robert Merrill  
California Coastal Commission  
Northcoast District Office  
P. O. Box 4908  
Eureka, California 95502-4908

Via FAX: (707) 445-7877 and mail  
Re: A-1-MEN-2-384/385 [Lemley]

Dear Mr. Merrill:

I wish to amend my appeal dated May 29, 2002 concerning the Lemley project at 11005 Lansing Street in the village of Mendocino. In listening to the tapes of the various meetings and going through the documents, I find no foundation for the assertion by Mr. Lemley, his agent and the County that the Mendocino Historic Review Board (MHRB) approved complete demolition of the building for the initial proposal. Everything in the record shows that the approved demolition was for only certain portions of the building which were to be remodeled as stated both in the submitted documents and as drawn on the plans.

In my opinion, the MHRB was misled into thinking that they had approved complete demolition of the building in the original proposal. If such an approval had been made, then the MHRB should have been given an opportunity to discuss where on the site the new building ought to be placed in order to give the least impact on the public park and on Lansing Street, one of the main thoroughfares into the historic village.

Since an appeal period is now open for the original project, I wish to amend my original appeal to include the original project, in order to appeal the staff's assertion that total demolition had been approved on the original project; and for failure to allow for a discussion of the siting of the building for the original project, if total demolition were, in fact, at issue.

Sincerely,



Dr. Hillary Adams

|                 |
|-----------------|
| EXHIBIT NO. 11  |
| APPLICATION NO. |
| A-1-MEN-02-157  |
| A-1-MEN-02-158  |
| ADAMS APPEAL    |
| (1 of 14)       |

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



APPEAL FROM COASTAL PERMIT  
DECISION OF LOCAL GOVERNMENT

RECEIVED

Please Review Attached Appeal Information Sheet Prior To Completing  
This Form. JUN 06 2002

CALIFORNIA  
COASTAL COMMISSION

SECTION I. Appellant(s)

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

Dr. Hillary Adams  
P.O. Box 19036  
Mendocino, CA. 95460      (707) 877-3527  
Zip    Area Code              Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: Mendocino County

2. Brief description of development being appealed: "Remodel and add to an existing 2, 486± sq. ft. one story, single family residence with attached garage resulting in a 4, 851 sq. ft., two-story, single family residence with attached garage, deck, hot tub, + trellis."

3. Development's location (street address, assessor's parcel no., cross street, etc.): 11050 Lansing Street A.P.N. 119-060-26; in the village of Mendocino, west of Hwy #1

4. Description of decision being appealed:

- a. Approval; no special conditions: \_\_\_\_\_
- b. Approval with special conditions: X "immaterial modification" permit amendment CD P 67-00(M)
- 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: \_\_\_\_\_

HE: 4788

2 of 14

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

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

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

Feb. 27, 2002 +

6. Date of local government's decision: March 14, 2002

7. Local government's file number (if any): CDP 67-00 (M)  
See also: MHRB #'s 00-35 + 01-10 + CDP 67-00.

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:

John + Nit Lemley (901) 944-0982  
7020 South Menica Cove  
Salt Lake City, Utah 84121

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) Supt. Greg Picard, Mendocino District  
Calif. Dept. of Parks and Recreation  
P.O. Box 440, Mendocino, CA, 95460

7) Bob Kenstein  
P.O. Box  
Mendocino, CA 95460

(2) Ms. Joan Curry (former MHRB member)  
P.O. Box 457 8 years  
Mendocino, CA 95460

8) Chet Anderson  
P.O. Box  
Mendocino, CA 95460

(3) Ms. Margo Farrar (former MHRB member)  
P.O. Box 741  
Mendocino, CA 95460

(4) Sam + Betty Shelton  
10951 Palella Drive  
Mendocino, CA 95460

(5) Ms. Linda Perkins, P.O. Box 467, Albion, CA, 95410

(6) Ms Dorothy Tobkin, 159 Jewett, Fort Bragg, CA, 95437

SECTION IV. Reasons Supporting This Appeal

(and others with letters on file objecting to the amendment as "immaterial" + the new project.)

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

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

(1) Not in character with the neighborhood (surrounding structures)

[Coastal Act 30118; LCP 3.5 et seq., especially 3.5-1, 3, 4.

CZC .504.015 (C) (2) + (3). CZC 20.504.016. MTP

2) Visual impact to and along the ocean & on state park and public trails. Coastal Act: 30240(b); 30251; CZC 20.504.026 (b)

3) Lot coverage appears greater than 20% allowed. (MTP ZC: 120.644.02

4) Height greater than 26' 6" allowed in permit (LDP 67-00)

5) Extensive material changes to project. not "immaterial amendment" (CZC 20.536.020 (F)(5) to

6) Hazard. Not the same house address by 1999 geotechnical report. Needs new report. (CZC 20.500.020) + (20.532.070).

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.

Supplementary material sent under separate cover: letter, portions of file; "blueprints," photographs

SECTION V. Certification

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

Hillary Adams  
Signature of Appellant(s) or Authorized Agent

Date May 31, 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 \_\_\_\_\_

4 of 14

Dr. Hillary Adams  
P. O. Box 1936  
Mendocino, California 95460

RECEIVED

May 29, 2002

Mr. Robert Merrill  
California Coastal Commission  
Northcoast District Office  
P. O. Box 4908  
Eureka, California 95502-4908

JUN 6 2002

Re: CDP 67-00(M) [Lemley]

Dear Mr. Merrill:

I am appealing CDP 67-00 (M) [Lemley] at 11050 Lansing Street, village of Mendocino. Since my last letter, May 8, 2002, in which I stated my intent to appeal the project, the Lemley's have bulldozed the existing house. However, I believe there is still substantial issue for an appeal concerning the new structure. I urge you to act rapidly on the appeal in order to protect coastal resources, decrease geologic hazard, protect the character of a neighborhood, and reduce visual impact on the adjacent State Park [Coastal Act 30118 (special district); 30240 B (impacts on parks); LCP 3.5-1, 3, 4, 5 (visual impacts); Coastal Zoning Code: 20.504.015 et. seq, especially (C)(3)]

The entirely new Lemley project [*i.e.*, different footprint, different facades, different room arrangement, different roofs (including a "lighthouse" cupola), different materials, different colors, different lighting plan and units, different orientation on the lot; different driveway type and position) was approved by the Coastal Administrator on March 14, 2004, through an "immaterial change" amendment. I was never notified of the March 14th decision. I had written a letter in a timely fashion-- within 10 days after the initial decision of February 27--to object to the immaterial amendment [CZC 20.536.020 (A) (C) (1 and 2)]. I am on the County's mailing list for all coastal developments in Mendocino County [Notice: CZC 20.536.010 (2)]. That, and my letter, constitute request for notification of final action, in my opinion.

There was a note in the file from Joan Curry requesting notification of the CDP decision. It is my understanding that she was not notified of the final decision. Other letters in the file objecting to the decision apparently were also ignored. The public should not be expected to know that they must request notification of the final decision, or that they must go to a site every day to see if there is a notice posted there. The Coastal Act is intended to be friendly to the public. The action of the County in this case, in my opinion, is unfriendly.

Moreover, there is no document in the Lemley CDP file stating that the Coastal Commission, Northcoast District Office, had been advised of the final decision, so that an appeal time could be set. It is my contention that this is an

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appealable decision under the Coastal Act. The following discussion supplements my initial appeal form:

A) Need for a new CDP for the new project

The original house has been bulldozed completely away. Since the house is gone and CDP 67-00 was a permit to "remodel and add to an existing structure" the project requires a new CDP. CDP 67-00 (M) does not mention the demolition of the then existing structure. The CDP 67-00 makes it very clear which portions of the house were to be demolished (kitchen, bedroom, deck) and where the additions were to be made (see site plans: new kitchen, new decking, expanded garage, new two-story study and bedroom wing).

2) The Geotechnical Report (~~2000~~<sup>2001 Brunzing</sup>) is specific to the original plan and orientation. Both the site plan and the opening sentence, which discuss the remodel of and additions to an existing structure, make that clear. The Lemley's architect claimed, in a letter dated January 22, 2002, that the MHRB had voted for demolition of the entire structure twice (MHRB 00-35 and 01-10. Apparently he claimed in the MHRB meeting of January, 2002, that the Board voted for demolition by default, since they knew the foundation required by the Geotechnical Report would necessitate demolition of the entire existing house.

At no point does the geotechnical report state that the then existing house would need to be entirely demolished in order to set the piers for the new foundation. It would be unreasonable to expect the members of the Mendocino Historical Review Board, who are not engineers, to make assumptions about the geotechnical report which the report itself does not make clear. In addition, it is my understanding, that the MHRB never saw the geotechnical report; that the report was only presented at the Coastal Administrator's hearing for CDP 67-00.

The new house appears to be a much heavier building with a large use of brick, including facade areas on all sides and three huge exterior brick fireplaces (see blueprint elevations). The new house is oriented differently on the lot. The cliff is in a high hazard area, with active erosion by landslides. The cliff edge is a very problematic location for so large and heavy a house. Most of the bluff face on the Lemley property has active landslides. What is presented in CDP 67-00(M) is a different house from that of CDP 67-00. Therefore a new geotechnical report is required (Hazard: CZC 20,500.020 and 20.532.070).

3) The new driveway (changed from asphalt to gravel) has been moved 36 feet to the south. It is no longer an "existing driveway." Therefore it is no longer exempt under the California Department of Forestry regulations and fees as was the original driveway.

\* in October hearing for MHRB 00-35, (2000).  
The report is dated January, 2001.  
6 of 14

*A number of other changes in the new project relate specifically to the character of the surrounding neighborhood, and visual impacts on public roads, coastal trails and the adjacent State Park. Many of these concerns were omitted from the CDP amendment list of "immaterial" changes. Following is a list of changes which I saw in the plans and descriptions. An asterisk marks the changes mentioned in CDP "immaterial" amendment 67-00(M):*

1) Demolition of the entire existing house rather than partial demolition of the kitchen, a bedroom, and the deck. The change from partial to complete demolition is not mentioned as one of the changes in CDP 67-00 (M).

2) Complete change of architectural style:\*

3) Significant changes in the footprint and the design of the interior rooms.

4) Change in the orientation of the house and attached garage.\* The change in orientation creates a greater visual impact on the coastal trails, on major view areas within the State Park, and on Heeser Drive. The only visual concern in the reports seems to be the impact on Lansing Street. Lansing Street is a main entrance into the town by automobile, but very few people walk there. On the other hand, the trails along Heeser Drive, the headlands and the coastal cliffs, including the path down to the beach at the rest area, are used by hundreds and thousands of visitors every year. Yet the western side of the project was given the least visual protection. The change in angle of house position was not mentioned in the MHRB permit No. 01-62. Who authorized it, and when?

5) Change of material: from cedar shingle to a combination of lap siding, shingle and brick. Much of the lower wall of the house (called a "wainscot") and at least three huge exterior fireplace chimneys are made of a red brick in the new project. The reduced plans filed with the CDP amendment do not indicate the position of the brickwork, the lap siding or the shingles. The blueprints show only the brickwork. The west and south facades, which are the sides most visible to the public from the coastal trails, Heeser drive and the State Park, are predominantly glass and brick. There is no significant landscape to mitigate the impact to west and south, because the building is placed immediately against the 25 foot setback required by the geotechnical report.

5) Change of color for siding, trim and roof: the plans say "cedar with stain," but fail to give the stain color. The MHRB permit No. 01-62 and CDP 67-00 (M) give the following color descriptions: "cedar shingles, siding finished with medium dark driftwood stain with olive tinge;" and "cedar trim to be finished lighter or darker to (sic) the body for contrast." (What color will the trim be? What color will the siding be? Where are the color samples? ) Both color descriptions represent major changes from MHRB permit No. 00-35 which states: "siding finished with the dark gray driftwood stain over cedar shingles for exterior walls and trim." The roof color has



also apparently been changed from "charcoal gray" to "balsam forest." In other words, the sides and roof of the new project are apparently greenish in color, contrasting with a red brick. The brick covers a large portion of the exterior walls and chimneys. The trellises, according to the plan, are "cedar w/ opaque finish." The trellises would introduce yet another contrast in color and hue. Without color samples it is difficult to know if any of the colors will blend with the surroundings. Certainly they are not in character with the neighborhood.

6) Addition of a long walkway, from driveway to front door, covered by a large trellis; Neither the walkway nor the trellis is shown on the elevations submitted with the CDP report or on the large blueprints.

7) Changed deck design. The deck in the new project is a rectangle placed on northwest end of the house, with a hot tub in the NW corner, instead of two triangles. Will the new deck will be covered with a large trellis? If so, the deck with its hot tub and trellis, are not shown either on the blueprint elevation or on the CDP reductions.

8) Changed lighting plan and fixtures. The Mission-style lanterns do not present shielded and downcast lighting. The site plan states that the lights will not be visible "from adjacent properties." The requirement is that the lights shall not be visible "outside property boundaries." There appear to be 15 lights shown on the site plan (the number is not mentioned in the staff report): 2 on the piers of the entrance gate; 4 around the driveway; 3 on the garage; 8 (?) along the entrance sidewalk/trellis. No other house in this neighborhood has a high driveway gate, much less one with piers and lanterns. The plan introduces an entirely alien and unfriendly element into the historic neighborhood.

9) Changed landscaping plan. The plan shows additional planting areas, but they only address Lansing Street on the east, not the far more important public views to the west and south, from Heeser Drive and the coastal trails within the State Park.

10) Addition of a fence along the south side of the house, apparently connecting to the garage. The fence is only shown on the blueprints. The fence is not described in the staff report. What is the material? How high is it? What is the color? The new site plan indicates an existing low fence running north/south within the 25' geological setback area, and an existing high fence along Lansing Street. Will these existing fences be removed? If so, will new fences replace them? What will they look like.

*Note: The font used by the architect on the plans is small and difficult to read. The long distances that must be traveled here on the coast to reach the Mendocino County Planning and Building office in Fort Bragg or in Ukiah in order to review the blueprints creates a hardship on the public. The Ukiah office does not allow copying of the plans. Therefore, the reductions in the staff report must be legible.*

8 of 14

Following is further discussion of the changes and additions listed above with reference to the certified Local Coastal Program, the Mendocino Town Plan and the Mendocino Zoning Code.

Conflicts with the Mendocino Town Plan and the certified LCP:

1) Out of character with neighborhood (RR-1) (surrounding structures): Coastal Act: 30118(special district) ; 30240 (b) (impacts on parks and recreation areas); LCP 3.5-1; 3.5-3 (one story) 3.5-4 (rural neighborhood;) Mendocino Town Plan Zoning Code 20.644 "...lesser heights may be required where it is found that building height would have an adverse impact to community character, historic structures, open space, or public views."

a) A letter in the file (MHRB 00-35) from Sam and Betty Shelton dated October 2, 2000\* points out that even the past project (MHRB Nos. 00-35, and 01-10; CDP 67-00) was out of character with the surrounding neighborhood. ~~They~~ Others (Kirstein) substantiate their information with an aerial view of the visual neighborhood to which the Lemley development belongs, and a chart showing square footage. The Sheltons are correct. The neighborhood which surrounds the Lemley project is predominantly one-story houses, most of them modest in size and dark-brown in color. I have driven Lansing Street and Heeser Street on innumerable occasions in the thirteen years we have lived here, and have always been impressed by the shingled, one-story houses that form a unique neighborhood of their own to the north of the older Victorian village. Almost all of the houses seem to have been built in the 1950's, long before the Coastal Act or the certified LCP for Mendocino County, but they typify the kind of effort for restraint of visual impact on coastal resources that the LCP addresses.

The statements in the staff reports, that the surrounding view is predominantly of two-story houses, can only be sustained by including Surfwood IV, a subdivision on the East side of Highway One, several miles away from the Lemley project. Surfwood is an old subdivision which was apparently exempted from the LCP. The land used for the fourth phase, Surfwood IV, was originally covered with trees. The trees were clearcut when that part of the subdivision was developed a few years ago (an act which was, in my opinion, out of compliance with the permit), leaving the large, new houses exceptionally visible from the headlands and the State Park. Surfwood IV should not be used to define neighborhood character for projects which are within the LCP and the historic town boundaries.

There is one, pre-LCP house of 1950's design to the immediate north of the Lemley property. It is painted a color that blends well with its landscape from the Lansing side, but is very visible from the trails. There is one more recently built two-story house of Victorian design and light color (which does not blend with this neighborhood) to the south. The fact that one or two houses have been mistakenly allowed to be out of character with the neighborhood should not be used as

\*referred to MHRB 00-35

9 of 14

justification to continue to erode the neighborhood character.

As the Sheldon's stated in their letter, the original Lemley plan (MHRB 00-35; 01-10; CDP 67-00) was already out of character with the surrounding neighborhood because of the second story and the large size. The new project will be even more so. The bulk, height and visual impact of the house, with its huge brick wainscot, its red and green color scheme, its "lighthouse" cupola and its architectural copper flues, has no match anywhere in the historic village of Mendocino. Brick is not a traditional building material in Mendocino. There is no other house to my knowledge with a gate across the drive and lanterns on brick piers. Visually, the house and attached garage are significantly larger than the few two-story houses in the surrounding neighborhood and entirely out of character with that neighborhood.

### 2) Impact on Coastal Resources, State Park and Coastal Trails.

The visual impact of the Lemley project on the State Park and the recreational coastal trails seems never to have been seriously considered by MHRB or the Coastal Administrator. There is no mention of it in the staff reports from 2000 to 2002. There is a letter in the file from Superintendent Greg Picard of the California Department of Parks and Recreation, Mendocino District, dated March 7, 2002, which objects to the substantial changes to the new project and the visual impact on major viewing areas to and along the ocean from the adjacent State Park. The bulk, the height, the huge red brick "wainscot," (which reaches up to the windows and covers the massive exterior chimneys), the large copper flues, which could remain shiny and reflective for many years, the "lighthouse" top, and the light from the great number of exterior fixtures, will all impact the Park. Some of the lanterns are now of Mission Style (it is difficult to tell how many). They are neither downcast nor shielded.

Both day and night, the new project will have significant impact on visual coastal resources to and along the ocean, and from every public view area, including Lansing Street, Heeser Street, the public trails and the headlands. Immediately to the west of the small peninsula on which the project sits is the rest area for Heeser Drive, which also includes parking and picnic areas. A popular trail leads from the rest area along the coastal bluff. Hundreds of thousands of visitors use these areas every year. The impact on the Park and its recreation areas will be considerable. The house should be lower, smaller and blend better with its setting in hue and brightness.

### 3) Materials, Colors, Landscape and Visual Impacts

Although there may be an overall 50% reduction of window area, as claimed by the CDP amendment [CDP 67-00 (M)], that reduction does not seem to include the south and west elevations, which are the major public views of the project from

the trails and the Park. The south and west elevations show banks of windows and glazed doors, massive areas of brick in "wainscot" and exterior chimneys, a huge copper flue, and a glazed "lighthouse" projection. Although the south and west elevations have the greatest public impact, they have been given the least visual protection. Landscape cannot be used as mitigation due to the fragile cliff edge. the house needs to be reduced and moved back further to allow for landscaping. Please note that the yard of the one-story house with brown shingles to the immediate south of the Lemley project fell into the ocean in the 1980's . Any landscaping it had has disappeared, and no new landscaping can be planted to mitigate the impact.

If the Lemley house were one story, smaller in size, and covered with dark-brown shingle, it would be in keeping with the neighborhood, could be placed further back from the edge of the cliff to allow a greater safety factor, and could be landscaped to mitigate the impact on the State Park and coastal trails.

3) Lot Coverage Requirement of no greater than 20% (MTP zoning code 20:644. 050)

The amended project is apparently larger than the allowed 20% development coverage. Neither the area of driveway nor the new brick piers topped by lights on either side of the driveway on the Lansing Street side appeared in the lot coverage calculations. (MTP zoning code: 20.644.050: 20% coverage for lots of less than two acres in size).

4) Height requirement of no greater than 26 feet 6 inches from any place on the lot.

The Mendocino town plan allows a maximum of two stories and 28 feet in height. However, it also requires that new development be in character with its neighborhood( *MTP Zoning Code 20.644 "...lesser heights may be required where it is found that building height would have an adverse impact to community character, historic structures, open space, or public views"* ). The old project, permitted under CDP 67-00, had a maximum height allowance of 26 feet, six inches. Since the new project was approved as an amendment to CDP 67-00, it must meet that permit's height requirement. The height of the "lighthouse" is stated as 26' 6" on the blueprint, but scales at nearly 28 feet, using the blueprint scale designation of 1/8" = 1' 0." That is also true of the huge copper flues, which are designed as an architectural element. The height of the flues scale at close to 29 feet. All of the other written measurements on the blueprints are scaled correctly. Therefore, the maximum height measurements appear to be intentionally misrepresented.

Sincerely,

*Hillary Adams*  
Dr. Hillary Adams

11 of 14



RAYMOND HALL  
DIRECTOR

COUNTY OF MENDOCINO  
DEPARTMENT OF PLANNING AND BUILDING SERVICES

MAILING ADDRESS:  
710 SO. FRANKLIN  
FORT BRAGG, CA 95437  
AMENDMENT TO PERMIT

TELEPHONE  
(707) 864-8378

FAX:  
961-2427

DATE: March 14, 2002

SUBJECT: Coastal Development Permit #CDP 67-00(M)

Granted to John and Nit Lemley for remodel and addition to an existing 3 bedroom 2,486 ± sq. ft. single family residence. The remodel includes a second story addition with a maximum height of approximately 26'6" feet above grade. The proposed addition would result in a 3-bedroom, 4,851 ± sq. ft. residence. It is located at in the town of Mendocino, on the W side of Highway One, on the W side of Lansing Street (CR# 500), approximately 300 feet N of its intersection with Heeser Drive (CR# 407ff), on a blufftop parcel at 11050 Lansing Street (APN 119-060-26). It has been amended to include the following changes:

1. The main N-S axis of the house will be rotated 27 degrees clockwise.
2. Change the window configuration to reduce the glass area by approximately 50%.
3. Change the style of architecture from a "contemporary" to an "arts and crafts" design which includes the use of iron-spot brick wainscot, dark olive-brown cedar siding and shingles and charcoal-colored composition roof shingles.

The amendment was determined by the Coastal Permit Administrator to be immaterial, was duly noticed, and the objections received did not constitute the need for a new hearing and/or special conditions.

This amendment will become effective upon return of a signed copy of this form to this office. Please note that all original permit conditions are still in effect.

*Doug Zanini for DZ*  
Doug Zanini, Coastal Permit Administrator

3-14-02  
Date

ACKNOWLEDGMENT: I have read and understand the above amendment and agree to be bound by its conditions and the remaining conditions of Coastal Development Permit Number #CDP 67-00.

*[Signature]*  
Signature

3-19-02  
Date

12 of 14

RECEIVED

MAR 08 2002

PLANNING & BUILDING SERV.  
FORT BRAGG, CA

Dr. Hillary Adams  
P. O. Box 1936  
Mendocino, CA. 95432

March 7, 2002

Mr. Doug Zanini  
Department of Planning and  
Building Services  
Mendocino County  
790 South Franklin Street  
Fort Bragg, CA. 95437


Via Fax: (707) 961-2427  
and by post

Dear Mr. Zanini:

I am writing to object to the administrative amendment for CDP 67-00 (Lemly) within the historic district on Lansing Street to the north of the village. The completely new design, whether or not it is preferable, and the proposed total demolition of the older structure, alone should have required a new CDP (Section 20.720.055 of the Zoning Code, Town of Mendocino. which allows an administrative amendment only if there are no substantial alterations. See the same criteria in CZC Chapter 20.536. Section 020).

The changes cited, among others, constitute a material change from the original CDP, especially since that CDP states "remodel with some demolition." I request that a new CDP be opened and a public hearing be held.

Sincerely,



Dr. Hillary Adams

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Mendocino District  
P.O. Box 440  
Mendocino, CA 95460  
(707) 937-5804

RECEIVED

MAR 21 2002

PLANNING & BUILDING SERV.  
FORT BRAGG, CA

March 7, 2002

County of Mendocino  
Department of Planning and Building Services  
790 So. Franklin  
Fort Bragg, CA 95437

Dear Mr. Miller,

I am writing this letter in reference to CDP #67-00 (Lemley) at 11050 Lansing Street in Mendocino. We originally received a notice of this partial demolition and construction proposal in October of 2000. Since then the project appears to have metamorphosed into a complete demolition of the existing structure and a new construction that looks quite different and somehow appears to present a much larger image to the viewshed of Mendocino Headlands State Park.

In our opinion, any structure in a highly scenic coastal viewshed should be built in a manner and location that has the least impact on coastal views from other properties in the area, and in particular from public use properties like Mendocino Headlands State Park. In the present case the proposed structure is highly visible from the park in many prime-viewing locations. For the structure to be built in a manner taking this concern into account it needs to be sited as far back from the bluff edge as possible considering construction limitations, be screened by native tree species that screen and break up the presence of the house, use non-reflective glass in the windows, and maintain dark materials for siding and roofing.

In addition, this structure appears to be very near the bluff edge, and I am surprised (especially considering the fresh slide I saw there just today) that the geologic report certified it as safe to build.

In light of the significant changes in the proposed structure I hope you will encourage a review and re-evaluation of the project and take my comments into consideration.

Sincerely,

Greg Picard  
District Superintendent

1.4 of 14

GEOTECHNICAL INVESTIGATION

LEMLEY RESIDENCE REMODEL  
11050 LANSING STREET  
MENDOCINO, CALIFORNIA

11573.1

January 23, 2001

Rec. 2/5/2001 by PBS

EXHIBIT NO. 12

**APPLICATION NO.**

A-1-MEN-02-157

A-1-MEN-02-158

TEXT OF GEOTECHNICAL  
REPORT (1 of 15)

Brunsing Associates, Inc.





# GEOTECHNICAL INVESTIGATION

## LEMLEY RESIDENCE REMODEL 11050 LANSING STREET MENDOCINO, CALIFORNIA

11573.1

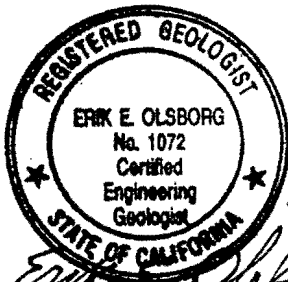
Prepared for

John Lemley  
7020 South Monica Cove  
Salt Lake City, UT 84121

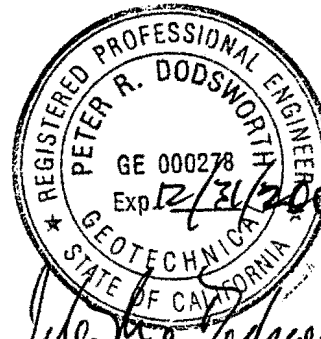
Prepared by

BACE GEOTECHNICAL  
A Division of Brunsing Associates, Inc.  
P.O. Box 749  
Windsor, CA 95492  
(707) 838-0780

January 23, 2001



Erik E. Olsborg  
Engineering Geologist - 1072



Peter R. Dodsworth  
Geotechnical Engineer - 278

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## 1.0 INTRODUCTION

This report presents the results of our Geotechnical Investigation for the planned remodel and additions to the Lemley Residence at 11050 Lansing Street in Mendocino, California (A.P.N. 119-060-26). The site is located on the west side of Lansing Street, approximately 300 feet north of the intersection with Heeser Drive, as shown on the Vicinity Map, Plate 1.

According to the project plans by Paul Tay, Architect, the project will consist of remodeling and additions to the existing residence. The residence was originally constructed 40 years, or more, ago. The additions are to be located essentially as shown on the Site Geologic Map, Plate 2. The existing, one-story, wood-frame residence and additions will have supported floors.

Our approach to providing the geotechnical guidelines for the design of the project utilized our knowledge of the soil/geologic conditions in the site vicinity, and experience with similar projects. Field exploration and laboratory testing for this investigation were directed toward confirming anticipated soil/geologic conditions, in order to provide the basis for our conclusions and recommendations. As outlined in our Service Agreement, dated October 26, 2000, our scope of services for the geotechnical investigation included geologic map and literature research, study of recent (1981) and older (1963) aerial photographs, geologic reconnaissance, subsurface exploration, laboratory testing and engineering and geologic analyses in order to provide conclusions and recommendations regarding:

1. Geologic suitability of the site, including a discussion of areas of geologic hazards;
2. Slope stability, including bluff edge setback criteria for the house;
3. The potential effects of seismicity and fault rupture;
4. Foundation design criteria;
5. Site drainage;
6. The need for additional geotechnical engineering services, as appropriate.

## 2.0 INVESTIGATION

### 2.1 Previous Reconnaissance

The ocean bluff west of the existing residence was affected by landsliding in the early 1980's. In September 1984, our Principal Engineering Geologist, Erik Olsborg, while with the firm of Field Engineering Associates, performed a reconnaissance evaluation of the subject property and provided verbal drainage recommendations to the previous owners.

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In the late 1980's, Olsborg also consulted with Charles Van Alstine, Consulting Engineer and Geologist, during bluff repair operations on the neighboring property to the south (11000 Lansing Street). This neighboring property landslide extends into the southwest corner of the Lemley property, as shown on the Site Geologic Map, Plate 2.

## 2.2 Research

As part of our study, we reviewed the following published geologic references:

- Ukiah Sheet, Geologic Map of California, 1960, California Division of Mines and Geologic (CDMG);
- Geologic Factors in Coastal Zone Planning: Russian Gulch to Buckhorn Cove, Mendocino County, California, 1976, Open File Report 76-4, CDMG;
- Geology and Geomorphic Features Related to Landsliding, Mendocino 7.5 Minute Quadrangle, Mendocino County, California, 1983 Open File Report 83-15, CDMG.

We also reviewed the following Consultants' letters and reports:

### Lemley Residence (11050 Lansing Street)

- Letter of Site Improvements, July 5, 1983, I.L. Welty and Associates;
- Letter, dated October 20, 1983, by Richard Kilbourne, Ph.D., Consulting Geologist;
- Brief Landslide Hazard Evaluation Report, dated October 22, 1983, by Richard Kilbourne, Ph.D., Consulting Geologist;
- Geologic Review of House Site and Bluff Conditions, letter dated March 9, 1987, by Wallace • Van Alstine & Kuhl;
- Letter dated March 4, 1988, by Charles Van Alstine, Consulting Engineer and Geologist.

### Neighboring Residence (11000 Lansing Street)

- Reconnaissance Report, dated December 5, 1980, by Scherf and Rau, Inc.;
- Evaluation of Soils for Support of Residence Report, dated May 1, 1981, by Moore & Taber;
- Letter, dated August 12, 1983, by Moore & Taber.

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2



### 2.3 Current Reconnaissance

For our current reconnaissance, our Principal Engineering Geologist walked the upper terrace level and roped down the bluff to closely observe the previous areas of landsliding. The results of our reconnaissance are presented in the Site Geology and Soils section of this report.

In addition, we examined aerial photographs, dated June 30, 1963 and June 23, 1981, both enlarged to a scale of one-inch equals approximately 200 feet. The bluff line and existing house in both photographs was compared with existing bluff conditions in order to determine the relative bluff retreat rate. The results of our aerial photograph study are incorporated into the Site Geology and Soils and Conclusions sections of this report.

### 2.4 Subsurface Exploration

On November 15, 2000, three exploratory borings were drilled adjacent to the planned building areas, to depths ranging from about 14.5 feet to 17.5 feet below the ground surface. The approximate locations of the borings are shown on the Site Geologic Map, Plate 2. Our Staff Engineer made a descriptive log of each test boring. Samples of the soil and rock materials encountered were obtained using a split-barrel sampler, driven by a 140-pound drop hammer falling 30 inches per blow. Blows required to drive the sampler were converted to equivalent "Standard Penetration" blow counts for correlation with empirical test data. Sampler penetration resistance (blow counts) provides a relative measure of soil/rock consistency and strength.

Logs of the test borings, showing the various soil and rock types encountered and the depths at which samples were obtained, are presented on Plates 3 and 4. The soils are classified in accordance with the Unified Soil Classification system outlined on Plate 5. The various physical properties used to describe the soils are outlined on Plate 6. The bedrock materials are described using the various physical property criteria shown on Plate 7.

### 2.5 Laboratory Testing

Selected samples were tested in our laboratory to determine their pertinent geotechnical engineering characteristics. Laboratory testing consisted of moisture content/dry density, triaxial strength, and classification (sieve analysis) tests.

The moisture content/dry density, classification, and strength test results are summarized opposite the samples tested on the boring logs; see the Key to Test Data presented on Plate 5, for an explanation of test data.

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### 3.0 SITE CONDITIONS

The property occupies a near-level marine terrace and adjacent ocean bluff at the north end of the community of Mendocino on the west side of Lansing Street. The ocean bluff is approximately 80 feet in vertical height with a very steep slope gradient that averages about three quarters horizontal to one vertical (3/4H:1V). Portions of the bluff are near vertical. There is a sand, gravel, and boulder beach at the bluff toe. The landscape of the site consists of large lawn areas with scattered trees and bushes. A neighboring single-family residence borders the north side of the property. The bluff face is mostly bare soil or rock with very little cover of grass or weeds.

The existing residential structure, located near the north end of the property, is supported on a perimeter, concrete foundation. The concrete footings have settlement cracks at several locations. The cracks vary from about 1/8 to 1/2 inch in width. The 1/4 to 1/2 inch wide crack on the southwest side of the residence shows about 3/8 inches of lateral displacement. This is probably the same crack that is described in the March 1987 letter by Wallace Van Alstine and Kuhl letter as "a crack open approximately 1/4 inch with small lateral displacement."

The 1983 I.L. Welty and Associates report states that "approximately ten feet (measured horizontally) of bluff top was sliding over the bluff. The failure scarp approaches to within 18 feet of the house foundation." As recently measured by BACE, the bluff is still approximately 19 feet from the northwest corner of the existing house foundation. According to Lee Welty of I.L. Welty & Associates (verbal communication, January 2001), their 1983 measurements were probably "very conservative" under the landslide conditions existing at that time.

The surface trace of a subdrain (perforated pipe at the bottom of a gravel-filled trench), in the form of a linear mound about 6 to 12 inches high by 2 to 3 feet wide, parallels the bluff edge as approximately shown on Plate 2. We understand that the subdrain was installed a short time after Olsborg's site visit in 1984. The subdrain outlet (solid-wall, flex pipe) extends down the bluff face west of the house. The outlet pipe is separated (disconnected) about half way down the bluff.

No surface water or evidence of ground water seepage was observed during our November, 2000 field exploration, which took place during a light to moderate rainfall.

### 4.0 SITE GEOLOGY AND SOILS

The site bedrock consists of gray to orange-brown shale of the Cretaceous-Jurassic Franciscan complex. These rocks are generally friable to hard, closely

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fractured, and little to deeply weathered. Where exposed on the bluff face, the friable portions of these rocks are erodible. The orientation of the rock bedding at this site, as is typical of the Franciscan Complex, is somewhat chaotic. One prominent bedding attitude consists of a northwest trending strike with a moderately steep dip of about 50 degrees from horizontal to the northeast (into the bluff).

Pleistocene terrace deposits overlie the bedrock at the site. The terrace deposits consist of about 2 to 3 feet of dark brown silty sand, over about 2½ to 3 feet of brown silty sand, over approximately 3 to 9 feet of orange brown, light brown, and gray medium to coarse-grained, clean (little or no clay or silt) sands. No clean sands were encountered in Boring B-1.

The dark brown silty sands (topsoils), are porous and loose; the underlying brown silty sands are loose to medium dense; and the lower clean sands are medium dense. The silty and clean sands appear relatively low in expansion potential (tendency for volume change with changes in moisture content). Severe caving occurred within the clean sands below 8 feet in Boring B-3.

There are two landslides on the ocean bluff at the property; one is west of the house, while the other extends from the south neighboring property into the southwest corner of the property. As previously mentioned, the west landslide was observed by the undersigned Principal Engineering Geologist in September 1984. At that time, a large slump block, approximately 10 feet across, was slowly breaking up and moving down the bluff face.

The landslide debris (on the westerly bluff face), observed by the undersigned, Olsborg in 1984 has mostly eroded away. The present landslide area on the bluff face contains minor slide debris (no slump blocks) along with exposures of intact soil (deeply weathered shale) and stringers of hard rock (mostly dipping into the bluff face). The exposed, intact soils and remaining pockets of slide debris are subject to occasional, minor erosion during storm periods. Several small (1 to 3 feet across) talus piles were observed at the bluff toe during our November 2000 reconnaissance.

Incipient landsliding may extend a few feet back from the existing bluff edge. The October 1983 report by Richard Kilbourne mentions a ground crack, one-inch wide at a depth of 10 inches, approximately 5 feet back from the bluff edge west of the house. This crack was not observed by Olsborg in September 1984 or in November 2000.

Ground water was not encountered in our borings. However, ground water may become perched in the terrace deposits over the less permeable shale bedrock following extensive rainfall.

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## 5.0 CONCLUSIONS

Based upon the results of our investigation and review of the available geologic data, we conclude that the site is suitable for the proposed residential remodel and additions. The main geotechnical considerations affecting the design and construction of the project are potential settlement, bluff stability, and the potential for strong shaking due to earthquakes.

### 5.1 Settlement

The building area is mantled with loose near surface soils ranging from about 4 to 5 feet in depth at our boring locations. The existing structure foundations have undergone past settlement within these weak soils. By using drilled piers for the remodeled residence and additions, the structure foundations will extend through the weak upper soils to gain support within stronger underlying materials, thereby mitigating the effects of settlement.

### 5.2 Bluff Stability/Setback Criteria

Based upon the results of our past and present reconnaissances, including comparisons of the bluff today with the aerial photographs from 1981 and 1963, we conclude that the bluffs are eroding at varying, non-uniform rates due to periodic rock falls or infrequent, shallow landslides. The bluff has not changed in 17 years, as measured by BACE in November 2000 and I.L. Welty & Associates in July 1983.

Therefore, we estimate that a relatively conservative bluff retreat rate of four inches per year should be used for setback determination. Based upon a period of 75 years, considered by the California Coastal Commission to be the economic lifespan of a house, this retreat rate would result in a setback of 25 feet. This setback is contingent upon an additional safety factor being provided by a drilled pier foundation.

### 5.3 Seismicity and Faulting

As is typical of the Mendocino County area, the site will be subject to strong ground shaking during future, nearby, large magnitude earthquakes. The intensity of ground shaking at the site will depend on the distance to the causative earthquake epicenter, the magnitude of the shock, and the response characteristics of the underlying earth materials. With firm bedrock within a few feet of the ground surface at the planned building area, the site should receive short period, jarring motions during an earthquake with no significant ground wave amplifications, that otherwise could be produced by a thick, weak soil deposit. Generally, wood-frame structures founded in firm materials, and

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6



designed in accordance with current building codes are well suited to resist the effects of ground shaking.

When saturated during severe storm periods, the sandy terrace deposits could be subject to lurching (lateral movement) during an earthquake. However, since the remodeled house is founded upon drilled piers with connecting grade beams gaining support in the bedrock underlying the weak terrace deposits, lurching should not be a concern at this site.

Since the active San Andreas Fault is about four and one half miles (7½ kilometers) away from the site, and no other active faults were observed by us or are shown on published maps in the site vicinity, it is our opinion that the potential for surface fault rupture at this site is very low.

## 6.0 RECOMMENDATIONS

### 6.1 Site Grading

Areas to be graded should be cleared of existing vegetation, rubbish, and debris. After clearing, in areas to be graded, surface soils that contain organic matter should be stripped. In general, the depth of required stripping will be about 1 to 2 inches; deeper stripping and grubbing may be required to remove isolated concentrations of organic matter. The cleared materials should be removed from the site; however, strippings can be stockpiled for later use in future landscape areas.

A BACE representative should observe soils exposed by the recommended excavations. These exposed soils should then be scarified to about six inches deep, moisture conditioned to at least optimum moisture content and compacted to at least 90 percent relative compaction as determined by the ASTM D 1557 test procedure, latest edition. These moisture conditioning and compaction procedures should be observed by BACE.

Fill material, either imported or on-site, should be free of perishable matter and rocks greater than six inches in largest dimension, and have an Expansion Index of less than 40, and should be approved by BACE before being used on site as structural fill. We anticipate most of the on-site soils will be suitable for use as fill. Only select material should be used within select fill zones (upper 30 inches of structural areas).

Fill should be placed in thin lifts (six to eight inches depending on compaction equipment), conditioned to near optimum moisture content, and compacted to at least 90 percent relative compaction as determined by the ASTM D 1557 test procedure, latest edition, to achieve planned grades.

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## 6.2 Foundation Support

Support for the remodeled residence and additions can be obtained using a cast-in-drilled-hole concrete pier and grade beam foundation system. Piers should be a minimum of 12 inches in diameter (18 inches would be easier to clean). The piers should penetrate a minimum of four feet into firm bedrock, as identified by BACE personnel. The average pier depth is anticipated to range from 10 feet to 20 feet below existing ground surface. Piers on the west side of the structure should be a minimum of 18 inches in diameter and at least 20 feet in depth. BACE should review the foundation plans to determine which specific piers should have the increased diameter and depth.

The drilled piers should be designed as skin friction piers. A skin friction value of 750 pounds per square foot (psf) per foot of depth penetration into bedrock, may be used for dead plus live loads. For the total downward load design, including wind or seismic forces, the pier capacity can be increased by one-third. Uplift frictional capacity for piers should be limited to 2/3 of the allowable downward capacity.

Resistance to lateral loads can be obtained using a passive earth pressure of 800 psf (rectangular distribution) within suitable supporting rock materials. Passive pressures can be projected over two pier diameters. .

Pier spacing should be no closer than three pier diameters, center to center. The weak surface soils should be neglected for resistance to vertical and lateral loads.

When final pier depths have been achieved, as determined by BACE, the bottoms of the pier holes should be cleaned of loose material. Final clean out of the pier holes should be observed by BACE.

If necessary, pier holes should be dewatered prior to placement of reinforcing steel and concrete. Concrete should not be placed freefall in such a manner as to hit the sidewalls of the excavation. Concrete must be tremied into place with an adequate head to displace water or slurry if groundwater has entered the pier hole.

During bidding, we recommend that proposed drillers be given a copy of this report to review. The driller should be prepared to case pier holes where caving occurs.

## 6.3 Seismic Design Criteria

The proposed structures should be designed and constructed to resist the effects of strong ground shaking (on the order of Modified Mercalli Intensity IX) in

12 of 15  
8



accordance with current building codes. The Uniform Building Code (UBC), 1997 edition, indicates that the following seismic design criteria are appropriate for the site:

Seismic Zone Factor,  $Z = 0.40$

Soil Profile Type =  $S_c$

Seismic Coefficients,  $C_a = 0.40 N_a$   
 $C_v = 0.56 N_v$

Near Source Factors,  $N_a = 1.1$

$N_v = 1.4$

Seismic Source Type = A (San Andreas Fault)

Distance to Fault = 7.5 km

#### 6.4 Concrete Slabs-On-Grade

If the garage concrete floor slab is not designed to span between foundation elements (gaining no support from the underlying soil), then the slab should be placed on at least 18 inches of compacted fill. The fill should be compacted to at least 90 percent relative compaction, as described in an earlier section of this report.

The slab-on-grade floor should be underlain by at least four-inches of clean, free draining gravel or crushed rock, graded in size from 1-1/2 inches maximum to 1/4 inches minimum, to function as a capillary moisture break. In areas where movement of moisture vapor through the slab would be detrimental to its intended use, the designer should consider installation of a vapor barrier membrane.

#### 6.5 Site Drainage

Because surface and/or subsurface water is often the cause of foundation and bluff stability problems, care should be taken to intercept and divert concentrated surface flows and subsurface seepage away from the building foundations. Concentrated flows, such as from roof downspouts, area drains and the like, should be collected in a closed pipe and discharged into a functioning storm drain system or into a natural drainage area well away from the bluff top and the building or driveway areas. The existing subdrain outlet should be reconnected or replaced, and secured into the bluff face by tying the pipe into hard-driven steel rods that penetrate at least 4 feet into the bluff soil and rock materials.

13 of 15  
9



## 6.6 Additional Services

- ✕ Prior to construction, BACE should review the final grading and building plans and geotechnical-related specifications for conformance with our recommendations.

During construction, BACE should be retained to provide periodic observations, together with field and laboratory testing, during site preparation, placement and compaction of fills and backfills, and foundation construction. Foundation excavations and drilled pier installations should be reviewed by BACE while the excavation operations are being performed. Our reviews and testing would allow us to verify conformance of the work to project guidelines, determine that the soil conditions are as anticipated, and to modify our recommendations, if necessary.

## 7.0 LIMITATIONS

This geotechnical investigation and review of the proposed development was performed in accordance with the usual and current standards of the profession, as they relate to this and similar localities. No other warranty, either expressed or implied, is provided as to the conclusions and professional advice presented in this report. Our conclusions are based upon reasonable geologic and engineering interpretation of available data. A soil corrosion study was not included in our scope of services for this project.

The samples taken and tested, and the observations made, are considered to be representative of the site; however, soil and geologic conditions may vary significantly between borings. As in most projects, conditions revealed during construction excavation may be at variance with preliminary findings. If this occurs, the changed conditions must be evaluated by BACE Geotechnical (BACE), and revised recommendations be provided as required.

This report is issued with the understanding that it is the responsibility of the Owner, or of his/her representative, to ensure that the information and recommendations contained herein are brought to the attention of all other design professionals for the project, and incorporated into the plans, and that the Contractor and Subcontractors implement such recommendations in the field. The safety of others is the responsibility of the Contractor. The Contractor should notify the Owner and BACE if he/she considers any of the recommended actions presented herein to be unsafe or otherwise impractical.

Changes in the conditions of a site can occur with the passage of time, whether they are due to natural events or to human activities on this, or adjacent sites. In addition, changes in applicable or appropriate codes and standards may occur, whether they result from legislation or the broadening of knowledge.



Accordingly, this report may become invalidated wholly or partially by changes outside our control. Therefore, this report is subject to review and revision as changed conditions are identified.

The recommendations contained in this report are based on certain specific project information regarding type of construction and building location, which has been made available to us. If any conceptual changes are undertaken during final project design, we should be allowed to review them in light of this report to determine if our recommendations are still applicable.

15 of 15  
11





Mendocino District  
P.O. Box 440  
Mendocino, CA 95460  
(707) 937-5804

RECEIVED

JAN 21 2003

January 13, 2003

CALIFORNIA  
COASTAL COMMISSION

Bob Merrill  
California Coastal Commission  
P.O. Box 4908  
Eureka, CA 95502-4908

Dear Mr. Merrill,

I am writing this letter in reference to CDP #67-00 (Lemley) at 11050 Lansing Street in Mendocino which I understand may now be referred to as A-1-Men-02-157 or 158. I am not sure of the number since I have not received any notice on these CDPs as an interested adjacent land owner. We originally received a notice of this partial demolition and construction proposal in October of 2000. Since then the project has grown into a complete demolition of the existing structure and a new construction that looks quite different and presents a much larger and more noticeable image to the viewshed of Mendocino Headlands State Park.

In our opinion, any structure in a highly scenic coastal viewshed should be built in a manner and location that has the least impact on coastal views from other properties in the area, and in particular from public use properties like Mendocino Headlands State Park. In the present case the proposed structure is highly visible from the park in many prime-viewing locations. For the structure to be built in a manner taking this concern into account it should have been sited as far back from the bluff edge as possible considering construction limitations, been screened by native tree species that screen and break up the presence of the house, used non-reflective glass in the windows, and maintained dark materials for siding and roofing. We hope these considerations will be incorporated in any CDP that is ultimately approved for this now, nearly finished structure.

In light of the significant changes in the proposed structure I hope you will encourage a review and re-evaluation of the project and take my comments into consideration.

Sincerely,

Greg Picard  
District Superintendent

|                 |
|-----------------|
| EXHIBIT NO. 13  |
| APPLICATION NO. |
| A-1-MEN-02-157  |
| A-1-MEN-02-158  |
| CORRESPONDENCE  |
| (1 of 5)        |

January 10, 2003

Robert Merrill  
District Manager  
California Coastal Commission  
710 E Street - suite 200  
Eureka, CA 95501

RECEIVED

JAN 13 2003

CALIFORNIA  
COASTAL COMMISSION

Dear Mr. Merrill:       RE: A-1-MEN-02-157  
                                  A-1-MEN-02-158

Both appeals regarding the Lemley project at 11050 Lansing St in the historic town of Mendocino, so designated by the National Register of Historic Places, and designated a special community in the Coastal Act, were obtained by collusion between the county of Mendocino and the applicants in giving false information to the MHRB and the public. In doing so they perpetrated a travesty of justice which has gotten us to where we now are.

Regarding A-MEN-02-158 from July, 2001, the county neglected to mention total demolition would occur and are unable to prove it was in any MHRB agenda, motion, minutes or MHRB permits of October 2000 and April 2001 upon which the CDP was granted. The way the county solves that problem is to claim total demolition was "inherent" in the CDP. No one knew this, hence no protests, until January 2002 when the Lemleys returned with a totally new project. At that time the MHRB was informed by staff that they had twice previously voted for total demolition on the basis of it being "inherent" in the first CDP. What gobble-de-gook!

Regarding A-MEN-02-157 was for a totally new design with total demolition specified in the description. It was a 3-2 vote in favor of demolition and the new design after MHRB had been told, in response to the specific question, that regardless of the vote the Lemleys could receive a demolition permit. This was based on the county interpretation of the July 2001 CDP and the claim MHRB had voted twice for total demolition. On the 10th day after the vote a member of MHRB who had voted in favor on the new project attempted to rescind the motion but was advised the county interpreted Sturgis Rules requiring a 72 hour notice of new meeting to mean 72 hours before the 10 day end of appeal period. Another misinterpretation to favor county and Lemley?

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As a result of the vote the county chose , despite protests, to issue an immaterial amendment on the basis the footprint did not change even though all else did.

Consequently the Lemleys are building as fast as possible a hugh house which blocks public view from Lansing St. west to the ocean and is a tremendous blot on the viewshed from Mendocino Headland State Park. It is totally out of character with the surrounding area.

To paraphrase an east coast conservationist - the land has been disappearing in a sea of steroids!

This should not happen. The Coastal Act was established to prevent just such an occurrence and can do so by approving the appeals.

Thank you,



Joan Curry  
PO Box 407  
Mendocino, CA 95460

Mendocino  
Jan 7, 2003

To: Robert Merrill  
Dist. Mgr.  
Calif. Coastal Comm.  
710 E St Suite 200  
Eureka, Ca 95501

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JAN 10 2003

CALIFORNIA  
COASTAL COMMISSION

I have lived in one of the "landmark" houses in Mendocino's Historic District for thirty years. I served as a member of the Review Board in the 1980's and chaired that body for five years.

Like Review Boards before and after my term the board I served on followed the MHRB guidelines in opposing the demolition of any structures within the historic zone. We understood that the Historic Zone was created to preserve Mendocino, designated "a special place" by the Coastal Commission.

It isn't difficult to imagine what Mendocino would be like now without Historic Zone protection when we witness the Lemley's demolition of their house on Lansing street.

Their action if unpunished will be a green light to other unscrupulous developers to level modest homes and build million dollar replacements, destroying what the Coastal Commission sought to preserve. This must not happen!

Margo Farrer

Box 741 Mendocino

4 of 5

January 4, 2003

Robert Merrill  
District Manager  
California Coastal Commission  
710 E Street, # 200  
Eureka, Ca. 95501

re: Lemley  
A-1-Mem-02-157  
A-1-Mem-02-158

RECEIVED

JAN 06 2003

CALIFORNIA  
COASTAL COMMISSION

Sir;

I am writing as a resident of the historic community of Mendocino and as a former MHC member.

I walk the headlands every day and am appalled to see the monstrosity being built on the cliffs of the headlands. It's effect on our "special community" ~~is~~ as designated in the Coastal Act is enormous.

I also believe there was some collusion between the Lemleys & the Planning Dept in the way the Review Board was given the information about demolition at the site. ~~Can~~

Construction should be stopped immediately & the Lemleys fined.  
Sincerely,  
Claire Label  
P.O. Box 223, Mendocino 95460  
505

