

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

RECORD PACKET COPY



F14a

Staff: Jim Baskin
Staff Report: May 23, 2003
Hearing on Revised Findings: June 13, 2003
Commission Action on
Revised Findings:

STAFF REPORT: REVISED FINDINGS**COASTAL DEVELOPMENT PERMIT AMENDMENT**

DECISION: Approval with Conditions

COMMISSIONERS ON THE
PREVAILING SIDE: Commissioners Desser, Hart, Luna, Durazo, Nava,
Allgood, Wan, Woolley, and Reilly

APPLICATION NO.: A-1-MEN-01-043-A1

APPLICANTS: KEN AND JILL ROOST

AGENT(S): Bud Kamb, Alan Block, Esq.

PROJECT LOCATION: 45501 Headlands Drive, Little River, Mendocino County,
APN 121-260-10.

DESCRIPTION OF PROJECT
PREVIOUSLY APPROVED: Construction of a 2,550-square-foot, 18-foot-high, single-
family residence with a 625-square-foot detached garage,
onsite sewage disposal system, extension of utilities, and
installation of 2,500-square-feet of paving for a driveway.

DESCRIPTION OF
AMENDMENT REQUEST: Increase the size of the home from 2,550 to 3,594 square
feet, increase the size of the garage from 625 to 643 square
feet and make the garage an attached garage, add a

perimeter fence, install a 2,200-square-foot permeable pavement driveway in place of the previously approved 2,500 square feet of impervious concrete.

SUBSTANTIVE FILE
DOCUMENTS:

- 1) Mendocino County CDB No. 17-01;
- 2) Coastal Development Permit No A-1-MEN-01-043; and
- 3) County of Mendocino Local Coastal Program.

STAFF NOTES:

1. Procedure.

The Commission held a public hearing and approved the coastal development permit amendment application at its meeting on March 5, 2003. The Commission found the project as amended consistent with the policies of the certified LCP and the access policies of Chapter 3 of the Coastal Act with certain specific conditions. The adopted conditions of approval differ from those contained in the written staff recommendation dated February 21, 2003, as amended by an addendum report dated March 4, 2003. The revised Special Condition Nos. 1 and 2 are found on pages 3 through 5. The primary changes to the findings regarding Special Condition No. 8 are found within the Geologic Hazards and Site Stability finding on pages 14 through 17 and the Visual Resources finding on pages 21 through 28. The primary change to the conditions and findings were to clarify that the fencing along the project site's western property line be set back twenty-five feet from the blufftop edge as measured from a point on the southwestern bluff edge perpendicular to the run of the fence. In addition, the height of the most seaward fifteen feet of the fence along the western property line was restricted to 3' 6". Other changes were also made to Special Condition Nos. 3, 4, and 5 at the behest of the applicants to allow for the all project conditions to be recorded as restrictions against the property utilizing a combined, generic recordation document, as set forth in appended Special Condition No. 9, instead of recording a separate instrument free and clear of all prior liens for each of the three conditions that require recordation.

As the Commission's action differed from the written staff recommendation, staff has prepared the following set of revised findings for the Commission's consideration as the needed findings to support its action. The Commission will hold a public hearing and vote on the revised findings at its June 13, 2003 meeting. The purpose of the hearing is to consider whether the revised findings accurately reflect the Commission's previous action rather than to reconsider the merits of the project or the appropriateness of the adopted conditions. Public testimony will be limited accordingly.

I. MOTION AND RESOLUTION:

Motion, Staff Recommendation and Resolution to Adopt Revised Findings:

The staff recommends that the Commission adopt the revised findings in Section IV below in support of the Commission's action on March 5, 2003 approving the permit amendment with conditions. The proper motion is:

Motion:

I move that the Commission adopt the revised findings dated May 23, 2003 in support of the Commission's action on March 5, 2003, approving Coastal Development Permit Amendment No. A-1-01-043-A1.

Staff Recommendation of Approval:

Staff recommends a YES vote on the motion. Passage of this motion will result in the adoption of revised findings as set forth in this staff report. Pursuant to Section 30315.1 of the Coastal Act, adoption of findings requires a majority vote of the members from the prevailing side present at the March 5, 2003, Commission hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote. See the list of eligible Commissioners on page 1.

Resolution to Adopt Revised Findings:

The Commission hereby adopts the findings set forth below for Coastal Development Permit Amendment No. A-1-01-043-A1 on the ground that the findings support the Commission's decision made on March 5, 2003 and accurately reflect the reasons for it.

ADOPTED RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves the proposed permit amendment and adopts the findings set forth below, subject to the conditions below, on the grounds that the development with the proposed amendment, as conditioned, will be in conformity with the certified County of Mendocino LCP and the public access policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because all feasible mitigation measures and alternatives have been incorporated to substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS: See attached.

III. SPECIAL CONDITIONS:

Note: Special Condition Nos. 1 and 6 of the original Coastal Development Permit No. A-1-MEN-01-043 are not applicable to the project as amended and have been deleted. Special Conditions Nos. 2 and 7 of the original permit are unchanged (except to correct and clarify references to other special conditions) and remain in effect. The conditions are listed below for reference. Original permit Special Condition Nos. 3 through 5 are revised as requested by the applicants and as set forth below to change the portions of those conditions requiring recordation of individual deed restrictions to conform to the Commission's new procedures for recording a single generic deed restriction (see new Special Condition No. 9, below) to impose all of the special conditions of a permit as restrictions on the use of the property. New Special Condition No. 8 has been added to require revised site, erosion and runoff control, and landscaping plans. Deleted wording within the revised special conditions is shown in ~~striketrough~~ text, new language appears as **bold double-underlined** text. For comparison, the text of the original permit conditions are included in Exhibit No. 8.

1. Revised Site and Erosion/Runoff Control Plans

[DELETED]

2. Conformance of the Design and Construction Plans to the Geotechnical Report

- A. All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with the recommendations contained in the geotechnical report dated November 14, 2001 prepared by BACE Geotechnical Consultants, except that the plans shall be revised consistent with Special Condition + 8, including but not limited to the requirement that all structures, **except for the fencing identified in Special Condition No. 8,** shall be setback at least 25 feet from the bluff edge and an additional ten feet (10') from the blufftop projection of the back of all sea cave walls underlying the site. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, evidence that a licensed professional (Certified Engineering Geologist or Geotechnical Engineer) has reviewed and approved all final design, construction, and drainage plans and has certified that each of those plans is consistent with all of the recommendations specified in the above-referenced geotechnical report approved by the California Coastal Commission for the project site.

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

3. **No Future Bluff or Shoreline Protective Device**

- A(1) By acceptance of this permit, the applicants agree, on behalf of themselves and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. A-1-MEN-01-043, including, but not limited to, the residence, foundations, garage and driveway in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, ground subsidence or other natural hazards in the future. By acceptance of this permit, the applicants hereby waive, on behalf of himself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235 or under the policies of the Mendocino County Land Use Plan and Coastal Zoning Code Chapter 20.532.
- A(2) By acceptance of this permit, the applicants further agrees, on behalf of themselves and all successors and assigns, that the landowner shall remove the development authorized by this permit, including the residence, garage, foundations, and driveway, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.
- A(3) In the event the edge of the bluff recedes to within 10 feet of the principal residence but no government agency has ordered that the structures not be occupied, a geotechnical investigation shall be prepared by a licensed geologist or civil engineer with coastal experience retained by the applicant, that addresses whether any portions of the residence are threatened by wave, erosion, storm conditions, or other natural hazards. The report shall identify all those immediate or potential future measures that could stabilize the principal residence without shore or bluff protection, including but not limited to removal or relocation of portions of the residence. The report shall be submitted to the Executive Director and the appropriate local government official. If the geotechnical report concludes that the residence or any portion of the residence is unsafe for occupancy, the permittee shall, within 90 days of submitting the report, apply for a coastal development permit amendment to remedy the hazard which shall include removal of the threatened portion of the structure.

~~B. PRIOR TO THE ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-01-043, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the above restrictions on development. The deed restriction shall include a legal description of the applicants' entire parcel. The deed restriction shall run with the land binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.~~

4. Assumption of Risk, Waiver of Liability and Indemnity Agreement

A. By acceptance of this permit, the applicants acknowledge and agree: (i) that the site may be subject to hazards from landslide, bluff retreat, erosion, subsidence, and earth movement; (ii) to assume the risks to the applicants and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

~~B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.~~

5. Design Restrictions

A(1) All exterior siding of the proposed structures shall be composed of natural or natural appearing materials, and all siding and roofing of the proposed structures shall be composed of materials of dark earth tone colors only. The current owner or any future owner shall not repaint or stain the house with products that will lighten the color the house as approved. In addition, all exterior materials, including roofs and windows, shall be non-reflective to minimize glare; and

- A(2) All exterior lights, including any lights attached to the outside of the buildings, shall be the minimum necessary for the safe ingress and egress of the structures, and shall be low-wattage, non-reflective, shielded, and have a directional cast downward such that no light will shine beyond the boundaries of the subject parcel.

~~B. PRIOR TO THE ISSUANCE OF COASTAL DEVELOPMENT PERMIT AMENDMENT NO. A-1-MEN-01-043, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the above restrictions on development. The deed restriction shall include a legal description of the applicants' entire parcel. The deed restriction shall run with the land binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.~~

6. Approved Design for Relocated Septic Disposal System

[DELETED]

7. Conditions Imposed By Local Government

This action has no effect on conditions imposed by a local government pursuant to an authority other than the Coastal Act.

8. Revised Site, Erosion/Runoff Control, Roofing, and Landscaping Plans

A. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT AMENDMENT NO. A-1-MEN-01-043-A1, and in order to implement the applicant's proposal, the applicant shall submit revised site, erosion & runoff control, roofing, and landscaping plans to the Executive Director for review and approval. The revised plans shall substantially conform with the site plan submitted to the California Coastal Commission on November 7, 2002, December 26, 2002, and January 8, 2003, and with the undated plans submitted to the Commission, titled "Roost Residence Landscaping Plan," prepared by Todd Newberger Environmental Design, except that the plans shall also provide for the following changes to the project:

1) Site Plan Revision

- a. Fencing along the western property line shall be confined to the western property line and shall be no closer than twenty-five feet (25') from the intersection of the western property line and the southern blufftop edge at the southwestern portion of

the property, and as generally depicted on Exhibit No. 10. The most seaward fifteen feet (15') of the fencing along the western property line shall be no higher than three feet, six inches (3' 6").

- b. Fencing along the eastern property line shall be confined to the eastern property line and shall be no closer than five feet (5') from the intersection of the eastern property line and the blufftop edge, and as generally depicted on Exhibit No. 10. No fencing along the eastern property line shall be higher than three feet, six inches (3' 6").

2) Erosion and Runoff Control Plan

- a. The proposed permeable driveway, shall be redesigned as follows:

- (i) If constructed from pervious concrete or porous asphalt, a regular maintenance program shall be identified. The description of exact maintenance program procedures to be used (e.g., periodic vacuum sweeping and/or high pressure hosing) shall include a schedule of when and how frequently the maintenance needs to be conducted, and documentation of all applicable manufacturer standards and practices to be followed to assure maximum stormwater runoff infiltration through the driveway materials. This maintenance program revision will not be required if the driveway is constructed from less management-demanding crushed aggregate and unit-paver materials.

3) Landscaping Plan Revision

- a. Three (3) five- or fifteen-gallon shore pines (Pinus contorta) shall be placed at the corners of the patio area along the southeastern side of the residence and at the southwest corner of the master bedroom, three of the five- or fifteen-gallon silk tassel trees (Garrya elliptica) shall be placed along the southeastern side of the residence in front of the patio, and a fourth silk tassel tree shall be placed between the southeast and southwest corners of the master bedroom.
- b. The landscaping plan notes shall include a prohibition against the planting of non-native invasive plants at the project site.

4) Roofing Plan Revision

All portions of the roofing, flashing, gutters and downspouts for the residence shall be constructed of copper materials designed and manufactured to not weather beyond a dull reddish-brown color. The permittee, shall periodically maintain the appearance of the roofing by applying paint or other type of coating to the roofing materials as needed every five to ten years to return the roofing, flashing, gutters and down spouts to a dull reddish-brown finish. Alternately, the permittee may utilize the alternative roofing materials identified within the project permit application materials (Levanthal, Schlosser, Architects, December 20, 2002), namely Malarkey Roofing Company's Alaskan™ asphalt-SBS polymer shingles of a charcoal-gray color.

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

9. Recordation of Deed Restrictions and Project Conditions.

PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-01-043-A1, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS

The Commission finds and declares the following:

A. Project History / Background.

The project site comprises Lot 10 of the Little River Headlands Subdivision, created by parcel map in 1965. The site is one of fifteen blufftop lots located west of Highway One on Headlands Drive, a private road located at the western terminus of Peterson Lane, approximately ½ mile northwest of the unincorporated town of Little River and just north of the beach at Van Damme State Park (see Exhibit No. 2).

On February 7, 2001, Bud Kamb, agent-of-record for David and Suzanne Wright, submitted Coastal Development Permit Application No. 17-01 (CDP #17-01) to the Mendocino County Planning and Building Services Department for a coastal development permit seeking authorization to construct a single-family residence, detached garage, onsite sewage disposal system, extension of utilities, and a paved driveway on an approximately one-acre parcel.

On June 28, 2001, the Coastal Permit Administrator for the County of Mendocino approved Coastal Development Permit No. #17-01 (CDP #17-01) for the subject development. The decision of the Coastal Permit Administrator was not appealed at the local level to the County Board of Supervisors. The County then issued a Notice of Final Action on July 9, 2001, which was received by Commission staff on July 10, 2001.

On June 19, 2001, the project was appealed by Wendy Weikel. The appeal cited numerous inconsistencies between the project as approved by the County and the policies of the County's certified LCP. On September 13, 2001, the Commission found that a Substantial Issue had been raised with regard to the consistency of the project as approved and the applicable policies of the LCP concerning: (1) geologic stability of the building sites; and (2) conformance with stormwater runoff and drainage standards.

The Commission subsequently held a public hearing and approved the application on appeal *de novo* at its meeting on May 10, 2002 finding the project consistent with the policies of the certified LCP and the access policies of Chapter 3 of the Coastal Act with certain specific conditions. As the adopted conditions of approval differ from those contained in the written staff recommendation, the Commission later held a public hearing and approved revised findings for the development's conditional approval on December 13, 2002.

Following the transfer in ownership from the Wrights to the Roosts, and related changes in development plans for the site, the subject permit amendment application was submitted on November 7, 2002. Following submittal of several additional requested information items, the application was deemed complete for filing on January 9, 2003.

B. Project and Site Description.

1. Project Setting

The roughly triangular-shaped property is approximately one acre in size and consists of a generally flat, grass-covered blufftop lot with scattered tree cover along its margins. Plant cover on the blufftop portions of the parcel is comprised of upland grasses, forbs, and shrubs, including coyotebrush (Baccharis pilularis) and bracken fern (Pteridium aquilinum). The property is bordered by thickets of shore pine (Pinus contorta ssp. contorta) on its eastern and western sides. The site does not contain any known environmentally sensitive habitat areas.

The project site lies within the LCP's Russian Gulch and Van Damme State Park Planning Area. The subject property is a vacant, legal non-conforming (to current minimum lot size standards) parcel designated in the Land Use Plan and on the Coastal Zoning Map as Rural Residential – 5-acre Minimum Lot Area (RR:L-5). The subject property is within a highly scenic area as designated on the Land Use Map (see Exhibit Nos. 2, 3 and 4). Due to the property's location within a gated community on a private road, public views to and along the ocean across the property are limited. Additionally, given the ¼-mile distance to the highway and the presence of other bluff headlands lying between the highway and project parcel, views of the site from Highway One and other public recreational areas are limited to a relatively brief gap in the roadside vegetation along northbound Highway One as it descends the slope to the mouth of Little River, and from the shoreline at the southwestern corner of Van Damme State Park.

2. Description of Originally Approved Project

The original permit approved the development of a 2,550-square-foot, 18-foot-height, one-story residence and 625-square-foot detached garage with a 2,500-square-foot asphalt driveway and septic system. The house and detached garage were to be built in the mid-center of the approximately one-acre parcel with the closest point of the house located 25 feet back from the bluff edge. Water service would be provided to the residence by the Little River Headlands Mutual Water Company. The development would be partially screened by the presence of existing vegetation. To further screen site improvements visible from those public vantage points, the applicants proposed that additional landscaping be installed along the eastern side of the parcel consisting of one Japanese black pine (Pinus thunbergiana), two shore pines (Pinus contorta), and three coast silk-tassel trees (Garrya elliptica).

The Commission imposed various special conditions to the approval of the original permit. These special conditions included requirements for the applicants to submit and receive approval from the Executive Director of revised site and erosion & runoff plans prior to commencing construction and provide documentation that all final design and construction plans, including foundations, grading and drainage plans comply with all

recommendations of the geotechnical report prepared for the project. In addition, the applicants were required to record deed restrictions against the use and enjoyment of the property, waiving all rights to construct future bluff or shoreline protective structures, assume all liabilities and hold the Commission harmless from any claims related to development within an area of known potential geologic instability, and set design restrictions on the exterior appearance of all structural materials and lighting to avoid and minimize significant adverse impacts to visual resources. Further, should any relocation of the previously-approved septic system be necessitated by modifications to the site improvements to conform with the other special conditions, the applicants were required to demonstrate that a revised septic system design had been approved with respect to its adequacy to serve the revised development. A final special condition declared that the Commission's authorization of the coastal development permit did not affect any conditions applied by local government entities operating under an authority other than the Coastal Act.

3. Description of Permit Amendment

The new owners now propose to amend the project to increase the size of the home by 1,044 square feet and substitute an attached garage that would be slightly larger than the previously approved detached structure. In addition, the driveway would be modified to use a water-permeable paving in place of an impervious concrete surface and reduced in area by 300 square feet. Treatment of stormwater runoff from the site would also be modified from the previously authorized leachfield collection and infiltration system to a bio-filtration treatment method, utilizing an existing vegetated drainage swale along the subdivision's access road.

As amended, the project would consist of: (1) a 3,594-square-foot, 18-foot-high, single-family residence with a 643-square-foot attached garage; (2) an onsite sewage disposal system; (3) extension of utilities; (4) 553.5 lineal feet of fencing and gating ranging in height from 3'6" to 6', to be installed along the front and side lot lines; and (5) installation of 2,200-square-feet of permeable paving for a driveway (see Exhibit No. 4). In addition, the previously approved landscaping plan has been modified to three shore pines and four coast silk-tassel trees, and including soil preparation, support staking and wind protection materials, and an automated irrigation system. Although the proposed amendment would expand the building envelope delineated by the original permit approval by over 1,000 square feet, the additional habitable structural area would be developed on portions of the lot closer to its road frontage and away from areas encumbered by geologic setbacks and/or within public view. Approximately 114.5 lineal feet of the line fence along the western property boundary would lie within the portion of the site visible from public vantage points along Highway 101 and Van Damme State Park. The applicant further proposes to amend the approved permit to revise those conditions of the original permit requiring recordation of individual deed restrictions to conform to the Commission's new procedures for recording a single generic deed restriction to impose all of the special conditions of the permit as restrictions on the use of the property. The conditions

proposed to be amended include Special Condition Nos. 3, 4, and 5 of the original approval.

C. Planning and Locating New Development.

1. LCP Provisions

LUP Policy 3.9-1 of the Mendocino County Land Use Plan states that new development shall be located within or near existing developed areas able to accommodate it or in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. The intent of this policy is to channel development toward more urbanized areas where services are provided and potential impacts to resources are minimized.

LUP Policy 3.8-1 states that Highway 1 capacity, availability of water and sewage disposal system and other know planning factors shall be considered when considering applications for development permits.

LUP Appendix No. 6, titled "Division of Environmental Health Land Division Requirements," contains the standards for the development of individual sewage disposal systems for the safe disposal of all human and domestic waste necessary to protect the health of the individual family and the community and to prevent the occurrence of nuisances. Although the appendix represents a compilation of laws, regulations, and policies that are primarily intended for use by those engaged in assessing the environmental health aspects of land divisions in Mendocino County, the standards are also used by the County in considering coastal development permits for new development on existing parcels or where further subdivision is not being proposed. The sewage disposal system standards include criteria addressing: (1) proper design to assure discrete subsurface disposal of wastes; (2) topographic siting constraints; (3) minimum depth-to-groundwater separation requirements; (4) acceptable soil texture and infiltration rate parameters; (5) minimum setback distances for septic tanks and leachfields (see Exhibit No. 7); (6) reservation of a replacement area should the primary system fail; and (7) the cumulative effects of multiple septic systems.

The subject property is zoned in the County's LCP as Rural Residential, 5-Acre Minimum Parcel Size [Rural Residential, 1-Acre Minimum Parcel Size, Conditional with Proof of Water] (RR:L-5 [RR-1]), meaning that there may be one parcel for every five acres, or one parcel per acre with proof of water. Coastal Zoning Code Chapter 20.376 establishes the prescriptive standards for development within Rural Residential (RR) zoning districts. Single-family residences are a principally permitted use in the RR zoning district. Setbacks for the subject parcel are twenty feet to the front and rear yards, and six feet on the side yards, pursuant to CZC Sections 20.376.030 and 20.376.035, respectively. Unless a further increase in height were found to not affect public views or be out of character with surrounding development, the maximum building height is 18

feet above natural grade. CZC Section 20.376.065 sets a maximum of 20% structural coverage on RR lots of less than two acres in size.

2. Discussion

The revised residential development proposed within the permit amendment application would be constructed within an existing developed residential subdivision known as Little River Headlands. The proposed use is consistent with the Rural Residential zoning for the site. The subject parcel, created in 1965 before adoption of the County's coastal zoning regulations, is a legal, non-conforming parcel of approximately 0.99 acre in size. The applicants propose to construct a total of 4,237 square feet of above-grade structural improvements, representing approximately 10% lot coverage. The proposed maximum building height is 18 feet. The proposed lot coverage and building height are consistent with the standards for the zoning district. Therefore, the development with the proposed amendment is consistent with the LUP and Zoning designations for the site and would be constructed within an existing developed area consistent with applicable provisions of LUP Policy 3.9-1.

The proposed amended development would be served by off-site community water supply system operated by the Little River Headlands Mutual Water Company, as the originally approved project would have been. Sewage from the development as proposed to be amended would be processed by a proposed septic system that has received a preliminary approval from the Mendocino County Department of Public Health's Division of Environmental Health (see Exhibit No. 9).

Use of the site as a single-family residence is envisioned under the certified LCP. The cumulative impacts on traffic capacity of development approved pursuant to the certified LCP on lots recognized in the certified LCP were addressed at the time the LCP was certified. Therefore, as conditioned, the proposed amended project is located in an area able to accommodate the development, consistent with the applicable provisions of LUP Policy 3.9-1.

D. Geologic Hazards and Site Stability.

1. Summary of LCP Provisions

LUP Policy 3.4-1 in applicable part states:

The County shall review all applications for Coastal Development permits to determine threats from and impacts on geologic hazards arising from seismic events, tsunami runup, landslides, beach erosion, expansive soils and subsidence and shall require appropriate mitigation measures to minimize such threats.

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...

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

LUP Section 3.4-8 states that:

Property owners should maintain drought-tolerant vegetation within the required blufftop setback. The County shall permit grading necessary to establish proper drainage or to install landscaping and minor improvements in the blufftop setback.

LUP Section 3.4-9 states that:

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

Zoning Code Section 20.500.010 states that development shall:

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

Zoning Code Section 20.500.020(B) states that:

Construction landward of the setback shall not contribute to erosion of the bluff face or to instability of the bluff.

Zoning Code Section 20.308.110(34) defines the term "structure" as follows:

'Structure' means anything constructed or erected, the use of which requires 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.

2. Discussion

The parcel involved in the proposed amended residential development contains approximately 400 lineal feet of shoreline bluff atop the Little River Headlands along the north side of the mouth of Little River in west-central Mendocino County. The subject site occupies the eastern side of a rocky promontory that forms a dramatic southeast-facing cliff that drops roughly 65 feet to the ocean. Portions of the cliff face are pocked by surficial rock falls of apparent recent origin. At the base of the bluff, a series of sea caves or tunnels have formed beneath the southeastern portion of the parcel, with four openings appearing on the south and east sides of the headland. Approximately 30 feet of overlying bedrock and marine terrace deposits are between the roof of the caves and the top of the bluff.

In issuing the coastal development permit for the original project in 2002, the Commission determined that the original oceanfront development could be found consistent with the geologic hazard policies of the County's LCP provided certain special conditions were attached to the project approval. These conditions included requirements that all portions of the proposed structures maintain a minimum 25-foot setback from the blufftop edge and a 10-foot setback from the blufftop projection of the back walls of all sea caves underlying the site. With these safeguards in place, the Commission found that risks of geologic instability affecting the originally approved development during the 75-year economic life of its structures had been averted consistent with LUP Policy 3.4-7 and Zoning Code Section 20.500.020(B).

Although the size of the proposed amended residence and garage would be significantly enlarged, the building envelope for the structures would be extended northward onto the more inland portions of the lot away from the bluff edge and areas underlain with sea caves. With the exception of the fencing runs along the east and western property lines, there would be no encroachment of structures toward the ocean that would expose the proposed new development to any greater risk from shoreline erosion or geologic stability than exists for the originally approved residential improvements.

As defined under Coastal Zoning Ordinance Section 20.308.110(34), fencing meets the definition of a "structure" as being an object that is "constructed or erected, the use of which requires location on the ground." Accordingly, development of the fencing as proposed must similarly be shown to be in conformance with the requirements of LUP Policy 3.4-7 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." Therefore, the Commission includes in the requirements of Special Condition No. 8 that the applicants submit a revised site plan for the review and approval of the Executive Director that shows the proposed fencing setback at least 25 feet from the bluff

top as measured from the point where the western property line intersects the blufftop edge to conform with the bluff setback requirements of LUP Policy 3.4-7.

Finally, with respect to the cited LCP standards for landscaping on sites subject to geologic instability, both plant species being proposed are considered to be "drought-tolerant" by the California Native Plants Society. Furthermore, LUP Policy 3.4-8 also provides for the installation of landscaping and authorizes grading necessary to establish proper drainage within blufftop setbacks.

Therefore, as the amended development as conditioned conforms to the bluff setback requirements of the LCP and would not locate structures any closer to geologically unstable areas than they were allowed to be under the originally approved permit, the site improvements as amended would not create any new risk of geologic hazard. Therefore, the Commission finds that the development with the proposed amendment and as conditioned is consistent with the geologic hazard provisions of the certified LCP.

E. Stormwater and Drainage.

1. LCP Provisions

LUP Policy 3.1-25 states:

The Mendocino Coast is an area containing many types of marine resources of statewide significance. Marine resources shall be maintained, enhanced and, where feasible, restored; areas and species of special biologic or economic significance shall be given special protection; and the biologic productivity of coastal waters shall be sustained.

LUP Section 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.

Coastal Zoning Code Section 20.500.020(B)(3) states that:

Construction landward of the setback shall not contribute to erosion of the bluff face or to instability of the bluff.

2. Discussion

LUP Policy 3.1-25 calls for the protection of the biological productivity of coastal waters. Storm water runoff from new residential development can adversely affect the biological

productivity of coastal waters by degrading water quality. LUP Policy 3.4-9 and Coastal Zoning Code Section 20.500.020(B)(3) require that construction landward of a blufftop set back and its related surface and subsurface drainage neither contribute to erosion of the bluff face or instability of the bluff itself.

The proposed amended development would not significantly adversely affect the water quality of the nearby ocean nor contribute to bluff erosion or instability. As discussed above, although the proposed amended development would represent a 33% increase in the size of residential and accessory structures being constructed at the site, because of the proposed substitution of a permeable pavement for the driveway, the total amount of impervious surface would decrease from 5,675 square feet to 4,237 square feet. Under the proposed amended project as detailed in the attached rainwater treatment and dispersal plan (David Duncan PE, 12/23/02), stormwater from the project site would be collected from the rooftops and conveyed via a "tightline" collection system designed to meet both the Commission's 24-hour 85th percentile storm event and the 10-minute & 24-hour duration, 10-year storm design criteria used by Mendocino County, to existing drainage ditching located along the Headlands Drive frontage of the lot. From the front of the lot, the stormwater runoff would flow through the grass-lined swale approximately 470 feet westerly along the southside of Headlands Drive until discharging through an outfall onto the consolidated rock-enclosed covelet between Lots 12 and 15.

Thus, storm water runoff generated from the development would have ample opportunity to infiltrate into vegetated areas on the site and/or undergo bio-filtration within the drainage swale before being discharged into coastal waters. Therefore, the Commission finds that the development with the proposed amendment would not significantly adversely affect the water quality and consequently the biological productivity of nearby coastal waters consistent with the provisions of LUP Policy 3.1-25, because (1) the development as proposed to be amended would not increase the amount of stormwater runoff from the site, and (2) storm water runoff would be controlled both on-site and off-site by infiltration and/or bio-filtration through vegetated areas. Furthermore, the Commission finds that the development with the proposed amendment ensures that surface and subsurface drainage would not contribute to the erosion of the bluff face or to the instability of the bluff itself consistent with LUP Policy 3.4-9 and Coastal Zoning Code Section 20.500.020(B)(3), as concentrated runoff from site improvements that would normal flow over the bluff edge would be redirected into an existing drainage system whose outfall is situated to avoid such impacts.

F. Public Access and Recreation.

1. Coastal Act Access Policies

Projects located between the first public road and the sea and within the coastal development permit jurisdiction of a local government are subject to the coastal access policies of both the Coastal Act and the LCP. Coastal Act Sections 30210, 30211, and

30212 require the provision of maximum public access opportunities, with limited exceptions. Section 30210 states that maximum access and recreational opportunities shall be provided consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. Section 30211 states that development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. Section 30212 states that public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, adequate access exists nearby, or agriculture would be adversely affected.

2. LCP Provisions

The Mendocino County LUP includes a number of policies regarding standards for providing and maintaining public access. Policy 3.6-9 states that offers to dedicate an easement shall be required in connection with new development for all areas designated on the land use plan maps. Policy 3.6-28 states that new development on parcels containing the accessways identified on the land use maps shall include an irrevocable offer to dedicate an easement.

LUP Policy 3.6-27 states:

No development shall be approved on a site which will conflict with easements acquired by the public at large by court decree. Where evidence of historic public use indicates the potential for the existence of prescriptive rights, but such rights have not been judicially determined, the County shall apply research methods described in the Attorney General's 'Manual on Implied Dedication and Prescriptive Rights.' Where such research indicates the potential existence of prescriptive rights, an access easement shall be required as a condition of permit approval. Development may be sited on the area of historic public use only if: (1) no development of the parcel would otherwise be possible, or (2) proposed development could not otherwise be sited in a manner that minimizes risks to life and property, or (3) such siting is necessary for consistent with the policies of this plan concerning visual resources, special communities, and archaeological resources. When development must be sited on the area of historic public use an equivalent easement providing access to the same area shall be provided on the site.

Note: This policy is implemented verbatim in Section 20.528.030 of the Coastal Zoning Code

3. Discussion

In its application of the above policies, the Commission is limited by the need to show that any denial of a permit application based on this section, or any decision to grant a permit subject to special conditions requiring public access is necessary to avoid or offset a project's adverse impact on existing or potential access.

The subject site is located within a locked-gate subdivision west of the first public road and sits atop a steep coastal bluff. The County's land use maps do not designate the subject parcel for public access, and there does not appear to be any safe vertical access to the rocky shore down the steep bluffs. In approving the original project, the Commission found that there was no evidence of public prescriptive use of the subject site, and the Commission does not require that public access be provided. Since the proposed amended development would not significantly increase the demand for public access to the shoreline and would have no other significant adverse impacts on existing or potential public access, the Commission finds that the development with the proposed amendment, which does not include provision of public access, is consistent with the public access policies of the Coastal Act and the County's LCP.

G. Visual Resources.

1. Summary of LCP Provisions

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 3.5-3 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:

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 area 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.

Coastal Zoning Ordinance Section 20.504.015 states, in applicable part:

(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 feet (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...*
- (7) *Minimize visual impacts of development on terraces by the following criteria: (a) avoiding development in large open areas if alternative site exists; (b) Minimize the number of structures and cluster them near existing vegetation, natural landforms or artificial berms...*
- (10) *Tree planting to screen buildings shall be encouraged, however new development shall not allow trees to interfere with coastal/ocean views from public areas...*

Coastal Zoning Ordinance Section 20.444.015(E) states, in applicable part:

Fences in rear or side yards not having street frontage may not exceed eight (8) feet. (Fences over six feet require building permits)...
[parenthesis in original]

2. Discussion.

The proposed amended development includes an 18-foot-high, 3,594-square-foot single-family residence, with an attached, 643-square-foot garage, and 541.5 lineal feet of gapped board-on-board fencing, ranging in height from 3-ft., 6-in. to 6-ft. The development is located in the Little River Headlands Subdivision, a gated residential community situated north of the unincorporated town of Little River. The property lies within a designated highly scenic area along the western side of Highway One. The subject site lies in a grassy opening on an uplifted coastal terrace headland that slopes gently toward the bluffs with scattered tree and shrub cover along its margins.

Due to its location on a private road closed to non-residents, no views to and along the ocean from the project site are available to the public. Therefore, the development with the proposed amendment would not block any views to and along the coast and would protect coastal views consistent with the applicable provisions of LUP Policies 3.5-1, 3.5-3, and CZC Section 20.504.015.

Due to intervening development and landforms, and the presence of roadside vegetation, the site is visible in the distance to motorists traveling northbound on Highway 1 for an approximate one-to two-second duration at the posted speed limit along the stretch of highway in the vicinity of the Fools Rush Inn and the Little River Market, south of the entrance to Van Damme State Park. Consequently, there are only limited views through the site from Highway One as it passes to the east of the subject site. Portions of the site

are, however, visible from the southernmost portions of rocky coastline south of the mouth of Little River within Van Damme State Park, approximately ½ mile southeast of the project site. In addition, portions of the site are visible from various locations in nearshore and offshore waters at the mouth of the Little River, a popular sea kayaking and diving area.

Residence

As a one-story structure at the proposed 18-foot maximum height, the proposed amended residential development would remain consistent with the visual resource protection policies and maximum height standards of LUP Policy 3.5-3, and CZO 20.504.015(C)(2). Furthermore, the proposed location of the revised building site would: (a) avoid placement within open areas on the terrace; (b) be situated both near the edge of a wooded area; and (c) be clustered near existing vegetation, consistent with CZC Sections 20.505.015(C)(5) and (7). Moreover, the house and garage as amended would continue to be near a wooded area on the west side of the property, consistent with the requirements of LUP Policy 3.5-4.

LCP policies require that new development within highly scenic areas be subordinate to the character of its setting. To help achieve this standard, the applicants have proposed to break up the visual expanse of the residential structure by installing landscaping along the eastern side of the house, consisting of three shore pines (Pinus contorta), and four coast silk-tassel trees (Garrya elliptica) (see Exhibit No. 4).

An approximately 65-ft.-wide portion of the house would be visible from Highway One and public-accessible areas along and above Little River Beach. Although portions of the revised house would also continue to be visible from nearshore and offshore waters, the visual impact of the house from the water would be limited as most of the length of the house in its north-south orientation extending away from the bluff edge would not be visible, leaving only the relatively narrow 40-foot width of the house within view. Given the proposed residences location relative to sightlines from Highway 1 and other public vantage points, only the most seaward portion of the proposed amended residence would need to be landscaped to mitigate visual impacts.

As stated above, the submitted landscaping plan (Todd Newberger Environmental Design, undated) indicates that three shore pine and four coast silk-tassel trees would be planted along the southeast portion of the residence to partially screen the structure from public view. However, the landscape plan site map illustrates the locations of only three such silk-tassel trees. To resolve this inconsistency, the Commission includes within Special Condition No. 8 a requirement that the applicants prepare and submit for the review and approval of the Executive Director a revised landscaping plan site map indicating the location of all landscape plants described within Landscape Note No. 2 of the preliminary plan. Special Condition No. 8 also specifies that the trees be planted in a certain arrangement on the property to maximize the softening affect they may have on

the appearance of the development. In addition, as proposed by the applicants, the landscaping plan includes a provision that will ensure that the trees are maintained and replaced if they die over the life of the development.

In addition other homes, landforms, and existing vegetation will mute the appearance of the residence and would blend it into the visual setting of the project. Furthermore, the portions of the amended residence development that would be visible from the beach and ocean would be similar to existing one- and two-story single-family residential development within the Little River Headlands Subdivision. Therefore, for all of the above reasons, the amended residence as conditioned, would be both compatible with the surrounding area and subordinate to the character of its setting consistent with LUP Policies 3.5-1, 3.5-3, and CZC Section 20.504.015.

Coastal Zoning Code Section 20.504.015(C)(3) requires that a development's building materials blend in hue and brightness with its surroundings. The applicants' architect has indicated that the exterior of the amended residence and garage would be constructed of horizontal western red cedar shiplap siding triple-coated with clear penetrating oil finish, resulting in an overall dark reddish-brown hue. The roof, flashing, and downspouts would be constructed with 16-ounce non-alloy copper sheeting that, according to the applicants' architect would weather to a "natural patina" color (Levanthal, Schlosser, Architects, December 20, 2002). The natural weathering of copper to the characteristic blue-green or gray-green patina is a direct consequence of the mild corrosive attack of airborne sulfur compounds. As natural weathering proceeds, the metal exposed to the atmosphere changes in hue from the natural salmon pink color through a series of russet brown shades to light and dark chocolate browns and finally to the ultimate blue-green or gray-green patina. In industrial and seacoast atmospheres, the natural patina generally forms in from five to seven years. In rural atmospheres, where the quantity of air-born sulfur dioxide is relatively low, patina formation may not reach a dominant stage for 10 to 14 years. In arid environments, the basic sulfate patina may never form due to the lack of sufficient moisture. Similarly, exposed horizontal surfaces develop the patina more rapidly than sloping surfaces which, in turn, patinate more rapidly than vertical surfaces. The critical variable, in all instances, is the dwell time of moisture on the exposed surfaces.

The other structures in the subdivision within view from Highway One have roofs predominantly made of wood shingle or shake or other materials that appear dark earth tone in color. If the proposed roofing materials were to weather to a color other than a dark reddish-brown, this portion of the structure would become more visibly distinct and remain neither visually compatible with the character of surrounding areas, or subordinate to the character of its setting as required by CZC Section 20.504.015(C)(3).

The requirements of Special Condition No. 5 of the original permit approval, which remain in effect, ensure that the colors of the exterior surfaces of the proposed amended house will be compatible with the character of the area. Special Condition No. 5 imposes

design restrictions, including a requirement that all exterior siding and roofing of the proposed structure shall be of natural or natural-appearing materials of dark earth tone colors only, such as that chosen by the applicants; that all exterior materials, including the roof and the windows, shall be non-reflective to minimize glare; and that all exterior lights, including any lights attached to the outside of the house, shall be low-wattage, non-reflective, and have a directional cast downward. To ensure that the proposed copper roofing materials do not overtime become inconsistent with the requirements of CZC Section 20.504.015(C)(3), the Commission includes within revised Special Condition No. 8 a requirement that the proposed copper roofing materials be painted, coated, or otherwise treated to maintain the reddish-brown color. Alternately, the applicants may use the dark gray asphalt-polymer composition shingle identified within project application materials (see Exhibit No. 4, page 3.1).

Special Condition No. 5 further requires the landowners shall not repaint or stain the house with products that will lighten the color as approved. Special Condition No. 9 requires that a deed restriction be recorded informing future buyers of the property of the special conditions of the permit, including these color and building material requirements. These requirements will ensure the project is consistent with the provisions of Coastal Zoning Code Sections 20.504.010 and 20.504.035(A)(2).

The requirements of Special Condition No. 3 of the original permit approval, which remain in effect, states the landowner shall not construct any bluff or shoreline protective devices to protect the residence, garage, septic system, or other improvements in the event that these structures are subject to damage, or other natural hazards in the future. Special Condition No. 9 requires that a deed restriction be recorded informing future buyers of the property of the special conditions of the permit, including these prohibitions against constructing future bluff or shoreline protective devices. These conditions will ensure that in the future, no seawall will be constructed that would have significant adverse impacts on visual resources.

Fencing

The proposed amended project also includes the construction of 541.5 lineal feet of fencing along the front and side property lines of the parcel. The fencing would range from 3-ft 6-in. to 6-ft. in height and consist of 1-in. x 6-in. gapped cedar planks on redwood posts and stringers with a natural (unpainted) finish. In addition, a 3-ft 6-in.-high x 12-ft.-wide motor-driven sliding gate constructed from 1½-in. square steel tubing with a black finish would be installed across the driveway entrance.

Approximately 200 lineal feet of the fencing along the western property line would lie within the portion of the project parcel within view from public vantage points along Highway 1 and the beach area at Van Damme State Park. Of this, approximately 100 feet of proposed 6-ft.-tall and 14.5 feet of proposed 3-ft, 6-in.-tall fencing would be situated such that it would be directly visible from these public vantage points and not otherwise obscured by the intervening residential building envelope or proposed landscaping. The

construction of the proposed fence in this area would introduce a horizontal linear feature into the Little River Headlands viewshed that would be significantly distinguishable from public vantage points to the southeast.

The LCP requirements that permitted development be found visually compatible with the character of surrounding areas and be subordinate to the character of its setting, would similarly apply to the proposed fencing and gating. With respect to character compatibility, line fencing and other forms of area screening are a class of improvements that is widely recognized as an incidental, necessary and customary subordinate use associated with a residential principal use. Within the surrounding neighborhood area comprised of the Little River Headlands Subdivision, nine of the 15 lots have some portion of their front or side property lines fenced in. Their heights range from two to eight feet and include grapestake picket, solid board-on-board, and gapped board styles. In addition to the six- to eight-foot-high gate across Headlands Drive at the entry to the subdivision, one of the lots has also constructed an electric sliding gate across its driveway similar to that proposed in the permit amendment request. The proposed fencing is similar to other fencing found within the immediate neighborhood.

Though the proposed fence and gate may be considered in character with the surrounding residential development, the most seaward portions of the proposed fencing that would extend beyond the residence to the bluff edge would not be subordinate to the character of its setting. Because of its invisibility from public vantage points, the majority of the proposed fencing does not raise a concern with regard to impacts to highly scenic coastal areas. However, though there are a number of fences throughout the subdivision, none of them extend to the bluff edge within view from the public vantage point along Highway One. Thus, the most seaward portion of the fencing along the western property line proposed as part of the amended project would not be subordinate to the character of the surroundings, contrary to LUP Policies 3.5-1 and 3.5-3, and CZC Section 20.504.015(C)(2).

The Commission notes that none of the lots within the subdivision have line fencing that extend as far out to the bluff edge as proposed under the proposed amendment project. Thus, the Commission has similar concerns that the precedent-setting effect authorizing fencing within blufftop setbacks would have to views to and along the coast throughout the Little River Headlands and surrounding areas.

The southerly 200 feet of the fencing along the western property line would lie within the portion of the lot currently visible from public vantage points along Highway One. However, as shown in photographs within the Neighborhood Compatibility Study compiled by the applicants' agent (see Exhibit No. 7), only the southernmost 17 to 18 feet of the fence line would be situated within an area that would not be otherwise fore-shadowed by the proposed residence and existing vegetation on the project parcel or have as a backdrop similar residential structures or mature vegetation on adjoining lots.

Accordingly, to ensure that the development will be subordinate to the open character of the surrounding bluff edge setting, the Commission includes within Special Condition No. 8 a requirement that the applicants submit for the review and approval of the Executive Director a revised site plan that would eliminate the fencing within 25 feet of the blufftop edge as measured from the point on the western property line where it intersects the bluff top edge. In addition, to further soften the appearance of the fence, the height of the first fifteen feet of fencing outside of the prohibited area are limited to three feet, six inches (3' 6"). As conditioned, the Commission finds that the proposed fencing is consistent with the requirements of LUP Policies 3.5-1 and 3.5-3 and Coastal Zoning Code Sections 20.504.015 that new development in highly scenic areas be subordinate to the character of its setting.

Conclusion

The visual resource impacts of the proposed amended development have been minimized by a combination of existing site conditions, the design of the structures, the inclusion of landscaping within the project, and by the attachment of special conditions to the project approval. The project site is inherently visually obscured by its location within a gated community and the presence of interposed vegetation and landforms that conceal it from most public vantages. The proposed height and bulk of the amended residence would not exceed the maximum height or conflict with other visual resource protection standards established in the LCP for highly scenic areas. These factors in conjunction with requiring the proposed landscaping, setting lighting restrictions, and prohibiting fencing within 25 feet of the blufftop edge will further protect views to and along the coast, ensure compatibility with surrounding areas, and ensure that the development with the proposed amendment will be subordinate to the character of its setting.

Furthermore the special condition of the original permit that remains in effect that requires dark earth tone colors for the structure, will ensure that the amended development's building materials will blend in hue and color with those of its surroundings. Moreover, the special condition of the original permit that remains in effect that requires a waiver of any rights to construct shoreline protection structures will ensure that a seawall that would dominate the appearance of the bluff will not be constructed in the future.

Therefore, the Commission thus finds that the development with the proposed amendment, as conditioned, is consistent with LUP Policies 3.5-1, 3.5-3, and 3.5-4, and with Zoning Code Sections 20.376.045, 20.444.015(E), 20.504.010, and 20.504.035.

H. California Environmental Quality Act (CEQA).

Section 13096 of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA).

Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Commission incorporates its findings on conformity with LCP policies at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed herein, in the findings addressing the consistency of the proposed project with the certified LCP, the proposed amended project has been conditioned to be found consistent with the County of Mendocino LCP and the access and recreation policies of the Coastal Act. Mitigation measures which will minimize all adverse environmental impacts have been made requirements of project approval. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed amended project can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

V. EXHIBITS:

1. Regional Location Map
2. Vicinity Map
3. Excerpt, Land Use Plan Map No. 17 – “Mendocino”
4. Site Plan, House and Garage Elevations, Fencing and Gate Details, and Landscaping Plan
5. Stormwater Drainage Calculations and Plan (Excerpts)
6. Site Visibility Study Map
7. Neighborhood Compatibility Study
8. Original Project Coastal Development Permit Adopted Findings Staff Report
9. Review Agency Correspondence

APPENDIX A:

STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgement. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable amount of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director of the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

EXHIBIT NO. 1

APPLICATION NO.

A-1-MEN-043-A1

ROOST

REGIONAL LOCATION
MAP

PROJECT
SITE

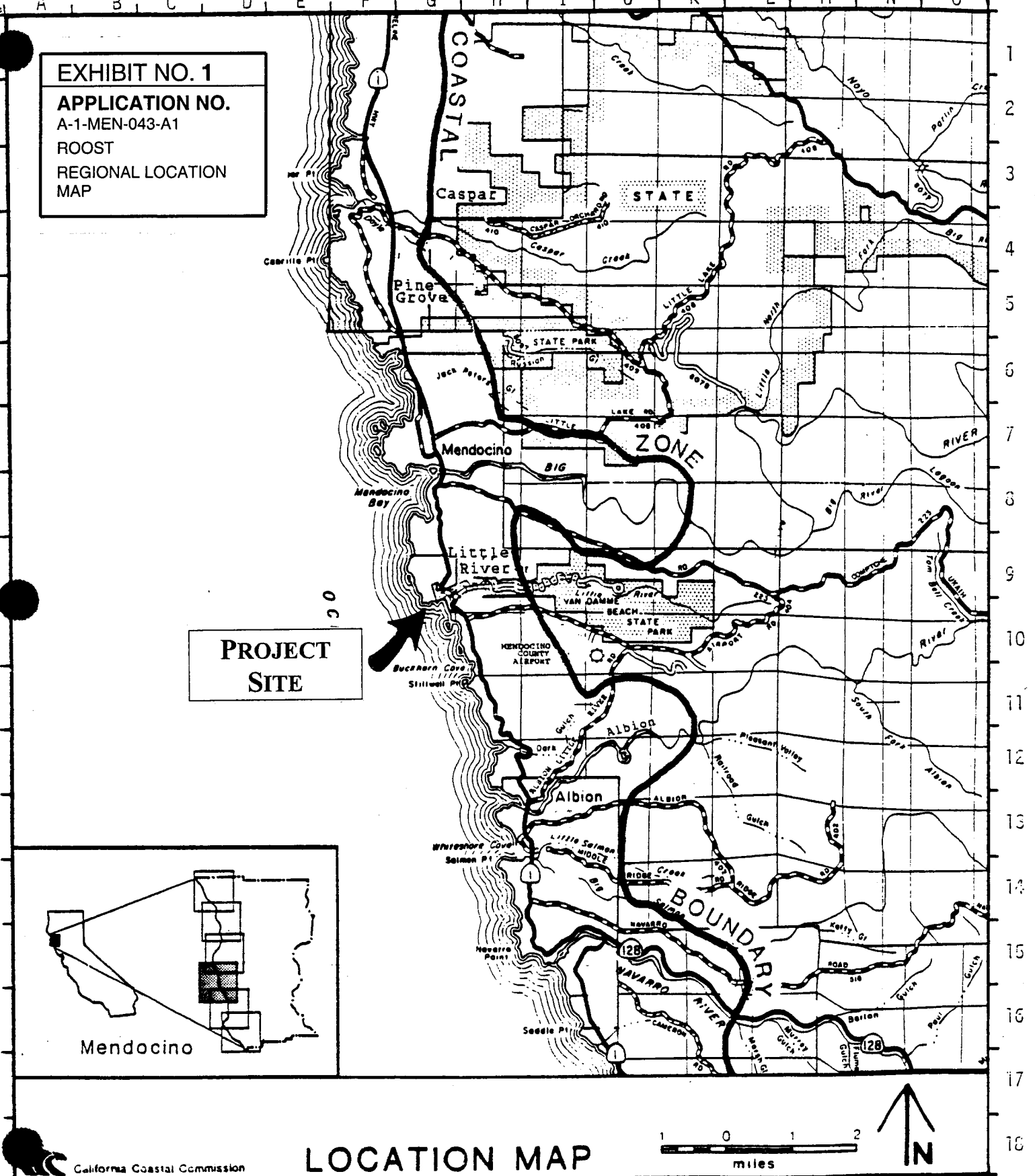
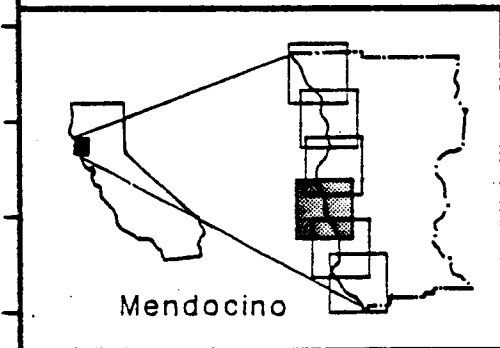
Mendocino

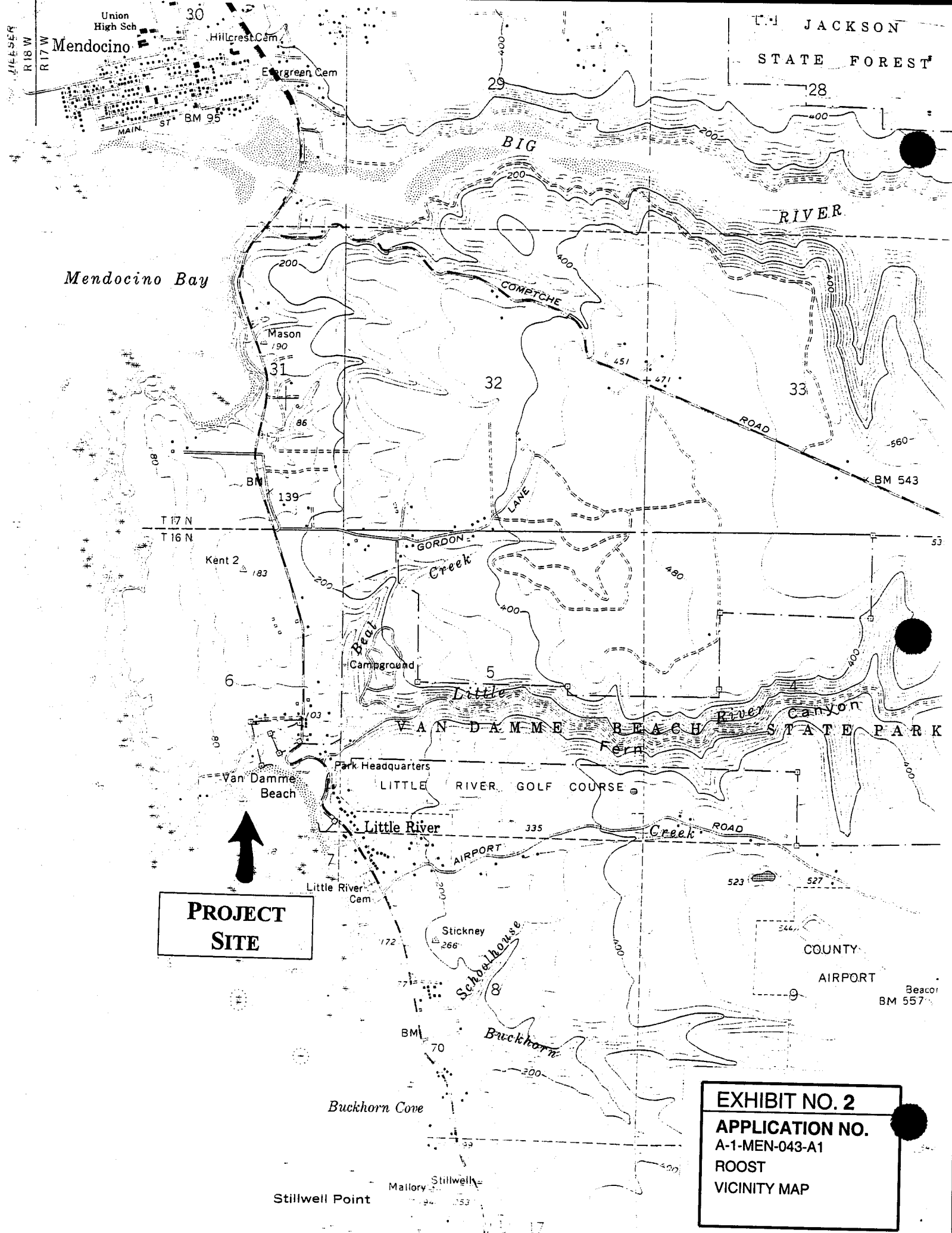
LOCATION MAP

miles

Sheet 4 of 6

County of Mendocino





**PROJECT
SITE**

EXHIBIT NO. 2
APPLICATION NO.
A-1-MEN-043-A1
ROOST
VICINITY MAP

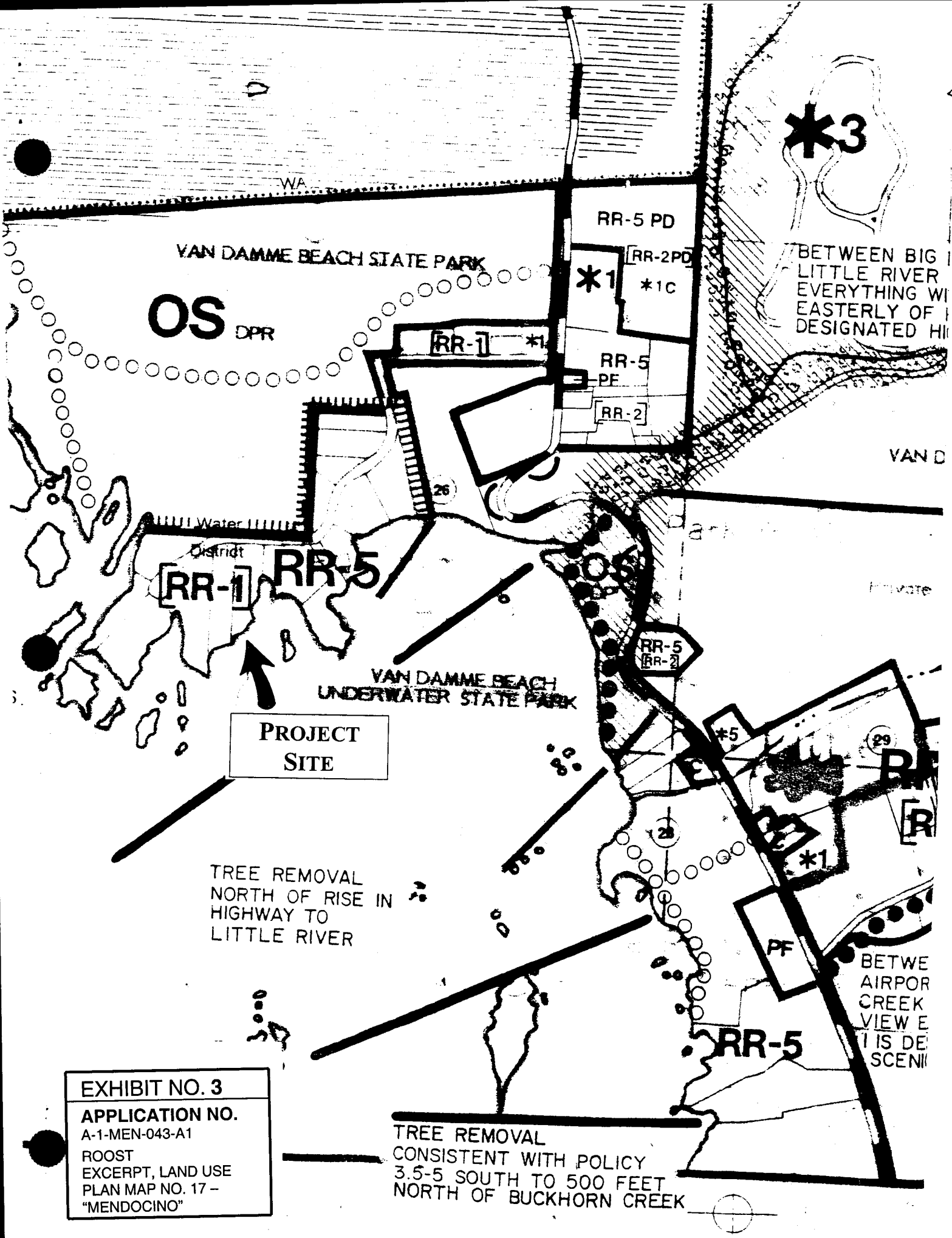


EXHIBIT NO. 3

APPLICATION NO.

A-1-MEN-043-A1

ROOST

EXCERPT, LAND USE

PLAN MAP NO. 17 -

"MENDOCINO"

TREE REMOVAL
CONSISTENT WITH POLICY
3.5-5 SOUTH TO 500 FEET
NORTH OF BUCKHORN CREEK

45501 HEADLANDS DRIVE
Little River, California 95456

A-1-MEN-043-A1
SITE PLAN, HOUSE &
GARAGE ELEVATIONS,
FENCING & GATE DETAILS &
LANDSCAPING PLAN (1 of 10)

An aerial photograph showing a coastal area. A circular callout labeled "SITE" points to a specific location on the shore, which appears to be a small structure or clearing. The surrounding area includes water, a beach, and some vegetation. A road or path is visible running along the coast.

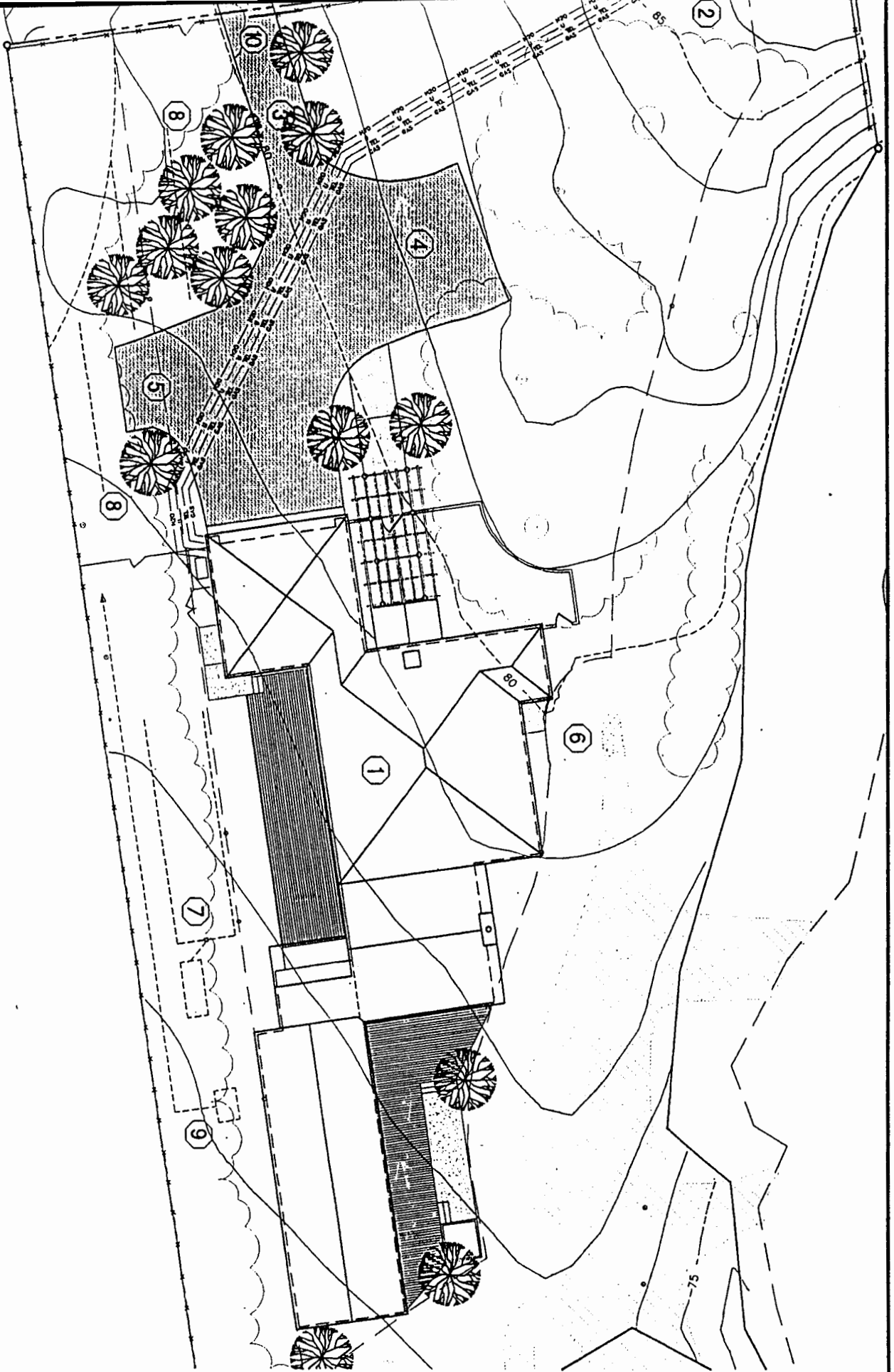
**EXTEND UTILITIES
TO RESIDENCE—**

- GEOLOGIC
SETBACK
LINE
- NEW TREE
PLANTINGS

SITE PLAN

A1.1

1 SITE PLAN



A1.2	DATE	BY	CHECKED	DATE	BY

1	2	3	4	5	6

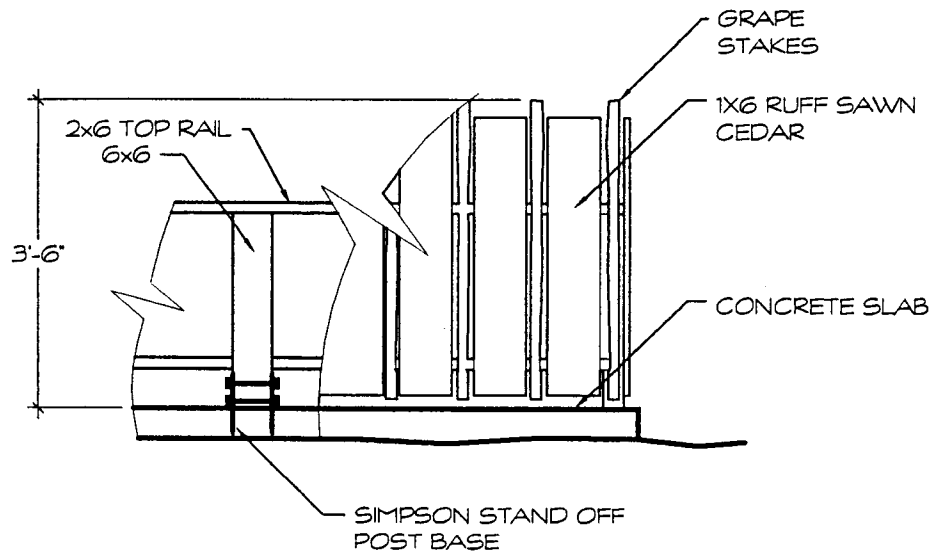
New Single Family residence for
JILL AND KEN
ROOST
 45501 HEADLANDS DRIVE
 LITTLE RIVER, California, 95456

ENLARGED
 SITE PLAN
 2 of 10

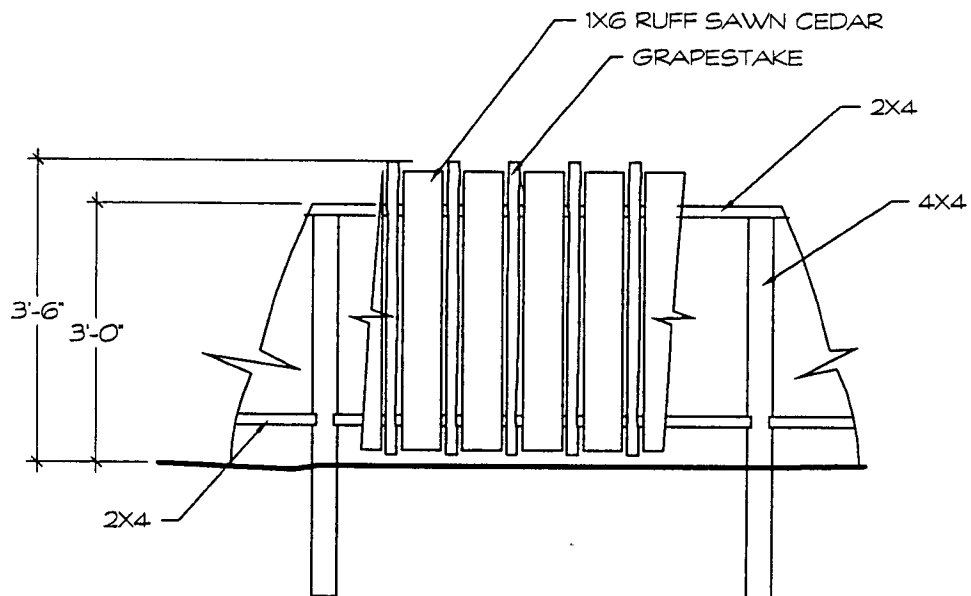
LEVENTHAL, SCHLOSSER, ARCHITECTS
 ARCHITECTS, LANDSCAPERS, and INTERIOR DESIGNERS
 400 SOUTH BAY STREET - SUITE 100, LITTLE RIVER, CA 95456
 Phone: (916) 291-1000 Fax: (916) 291-1001
 www.leventhal-schlosser.com

KEY NOTES

- ① PROPOSED RESIDENCE
- ② PROPANE TANK WITH
3'-6" H FENCED ENCLOSURE
- ③ NEW DRIVEWAY
- ④ GUEST PARKING
- ⑤ TURNAROUND
- ⑥ GEOLOGIC SETBACK
- ⑦ SEPTIC SYSTEM
- ⑧ REPLACEMENT LEACH FIELD
- ⑨ RAINWATER COLLECTION BOX
- ⑩ AUTOMATIC ENTRY GATE



ENCLOSURE FENCE



3'-6"H FENCE

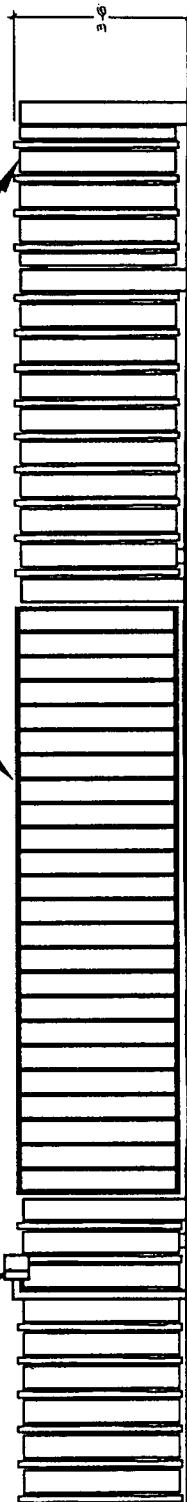
4 of 10

6 of 10

3/8" X 12' 0" X 1/2"
VEHICLE
5' 0" X 6' 0" X 1/2"
5' 0" X 6' 0" X 1/2"
1 1/2" X 6' 0" X 1/2"
1 1/2" X 6' 0" X 1/2"

3' 0" X 12' 0" X 1/2"
(VEHICLE)

1 1/2" X 6' 0" X 1/2"
5' 0" X 6' 0" X 1/2"



ENTRY GATE & FENCE

SEA CAVE LOCATION PER
BASE GEOTECHNICAL
SITE GEOLOGIC MAP
DATED 11/14/01
REVISED 03/13/02

BASE MAP PER
IL PELTY & ASSOC.
TOPOGRAPHIC MAP
DATED 9/01
& SETBACK EXHIBIT MAP
DATED 12/20/02

9 SURVEY MONUMENT FOUND



PH: 707-937-5334
FAX: 707-937-2891

PROFESSIONAL BUILDING DESIGN
CERTIFIED ENERGY ANALYST

Forrest M. Newberry
THESE DRAWINGS WERE PREPARED BY ME
OR UNDER MY SUPERVISION.

SEA CAVE LOCATION PER
PAGE GEOTECHNICAL
SITE GEOLOGIC MAP
DATED 11/4/01
REVISED 03/13/02

BASE MAP PER
I.L.WELTY & ASSOC.
TOPOGRAPHIC MAP
DATED 9/01
& SETBACK EXHIBIT MAP
DATED 12/20/02

③ SURVEY MONUMENT FOUND

LANDSCAPE PLAN

SCALE: 1" = 20'-0"

7410

LANDSCAPE NOTES:

1. GENERAL CONDITIONS: ALL WORK SHALL BE DONE IN A PROFESSIONAL MANNER AND BE OF THE HIGHEST QUALITY STANDARDS.
2. PLANT MATERIAL:
 - A. ALL PLANTS SHALL BE TOP QUALITY NURSERY STOCK, FREE OF DISEASE AND PESTS.
 - B. ALL PLANTS SHALL BE NORMAL SIZE FOR CONTAINER, VIGOROUS, AND TRUE TO NAME AND VARIETY.
 - C. TREES AND SHRUBS SPECIFIED ON THIS PLAN SHALL BE OBTAINED FROM LOCAL TREE NURSERIES THAT GROW SPECIFIC NATIVE SPECIES.
 - D. PLANT STOCK TO BE USED.

(3) PINUS CONTORTA	5 OR 15 GALLON CONTAINER
(4) GARRYA ELLIPTICA	5 OR 15 GALLON CONTAINER
3. SOIL PREPARATION:
 - A. NO ADDITIONAL TOP SOIL NEEDS TO BE IMPORTED INTO THE SITE. THE EXISTING TOPSOIL HORIZON IS SANDY LOAM WITH AN APPROXIMATE DEPTH OF THREE (3) FEET.
 - B. PLANT HOLES SHALL BE TWICE THE DIAMETER AND DEPTH OF THE ROOT BALL. SEE DETAIL 3 / L1 FOR PLANTING INSTRUCTIONS.
 - C. EACH TREE SHALL HAVE 7.5 GALLONS OR 1 CU. FT. OF HUMUS BUILDER OR EQUAL AND 2 TABLESPOONS (2 TBSP.) WATER CRYSTALS ADDED AND MIXED WELL INTO THE BACKFILL MIX TO GIVE THE TREES A BOOST OF NUTRIENTS AND THE SOIL WATER RETENTION. BACKFILL MIX IS 1/3 HUMUS BUILDER, 2/3 NATIVE TOP SOIL.
 - D. AGRIFORM (20-10-5) SLOW RELEASE 21 GRAM FERTILIZER TABLETS OR EQUAL SHALL BE PLACED EVENLY AROUND THE PLANT CIRCUMFERENCE, HALF WAY DOWN ROOT BALL AND 4" AWAY. USE 3 TABLETS PER 5 GALLON TREE AND 5 PER 15 GALLON TREE.
4. PLANTING:
 - A. WHEN PLANTED, CROWN OF PLANT SHALL BE 1 1/2" ABOVE GRADE. PREPARE A WATER BASIN BY FORMING A SOIL RING AT LEAST 3" HIGH AND WIDE AROUND THE OUTER EDGE OF THE NEW PLANT HOLE. WATER PLANTS IN CONTAINER THOROUGHLY PRIOR TO PLANTING AND DIRECTLY AFTER TO ELIMINATE AIR POCKETS AND REDUCE PLANT STRESS.
 - B. ALL PLANTS SHALL RECEIVE 3" MINIMUM OF 3/4" WALK ON FIR BARK MULCH OR EQUAL. EXISTING VEGETATION IN A 3' RADIUS FROM TREE CROWN SHALL BE REMOVED AND MULCH APPLIED.
 - C. PLANTS SHALL BE KEPT MOIST FOR TWO WEEKS FOLLOWING PLANTING AND THEN WATERED WELL, ONCE PER WEEK UNTIL RAINY SEASON BEGINS.

8 of 10

5. STAKING AND WIND PROTECTION:

- A. SET THREE (3) 2" DIAMETER X 8' TALL PRESSURE TREATED DOUGLAS FIR (P.T.D.F.), REDWOOD OR LODGEPOLE TREE STAKES FORMING A 90 DEGREE ANGLE ON THE WINDWARD SIDE OF THE TREE, OPENING AWAY FROM THE DIRECTION OF PREVAILING WINDS. SET ALL STAKES 20" FROM THE ROOT CROWN, PLUMB AND 12" MIN. SECURELY INTO UNDISTURBED GRADE BELOW THE TREE ROOT BALL.
- B. HIGH QUALITY WOVEN LANDSCAPE FABRIC, 4' TALL, SHALL BE STAPLED SECURELY TO THE POLES IN ANTICIPATION OF HEAVY WINDS.
- C. SECURE FOUR (4) RUBBER OR POLY. TREE TIES FASTENED IN A FIGURE "8" AROUND TREE PER DETAIL 3 /L1. TIES SHALL BE PLACED ON THE TWO STAKES THAT ARE PERPENDICULAR TO THE DIRECTION OF THE PREVAILING WINDS. SECURE TIES TO TREE STAKES WITH 1 1/2" GALV. ROOFING NAILS.
- D. STAKING AND WIND PROTECTION SHALL REMAIN FOR A MINIMUM OF TWO YEARS OR UNTIL TREE IS WELL ESTABLISHED.

6. IRRIGATION:

- A. AN AUTOMATED IRRIGATION SYSTEM SHALL BE PROFESSIONALLY INSTALLED AND FUNCTION FOR A MINIMUM OF TWO YEARS. IT SHALL BE MAINTAINED AND RETAINED TO IRRIGATE REPLACEMENT TREES, AS NEEDED, FOR THE LIFE OF THE STRUCTURE.
- B. SYSTEM SHALL BE INSTALLED IN THE FOLLOWING MANNER:
 - 1. WATER WILL FLOW FROM A STORAGE TANK THROUGH A 1 1/4" BALL VALVE, 1 1/4" COMMERCIAL AGRICULTUREAL FILTER AND A 1 1/4" WILKINS 950 XL DOUBLE CHECK VALVE ASSEMBLY FOR BACK FLOW PREVENTION OR EQUAL.
 - 2. A HARDIE RAINDIAL 6 STATION CONTROLLOR AND IRRITROL 1" ULTRA FLOW 700 SERIES AUTOMATIC IN LINE VALVES OR EQUAL SHALL BE USED IN CONJUNCTION WITH 3/4" POLY. DRIP TUBING LAID NEXT TO EACH TREE CROWN. A ONE GALLON PER HOUR PRESSURE COMPENSATING DRIP EMITTER WILL BE PLACED AT THE CROWN OF EACH TREE AND (2) ONE GALLON PER HOUR PRESSURE COMPENSATING DRIP EMITTERS WILL BE PLACED 14" FROM CROWN EACH SIDE ALONG DRIP LINE TO ENSURE BALANCED WATERING.
 - 3. THIS SYSTEM WILL PROVIDE 12 TO 15 YEARS OF SERVICE.

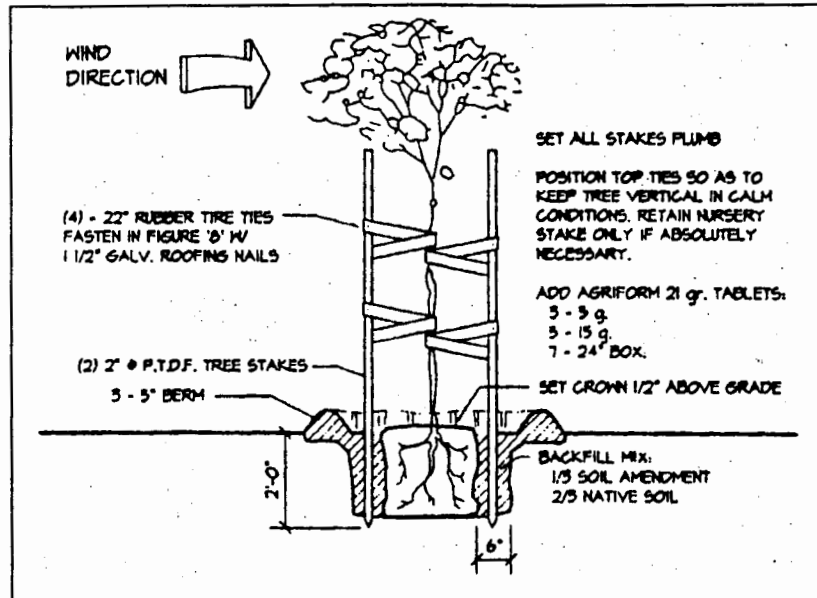
7. MAINTENANCE AND REPLACEMENT:

- A. PROVIDE A MONTHLY MAINTENANCE CHECK ON IRRIGATION AND TREE CONDITIONS TO ENSURE SUCCESS OF THE PLANTING AND IRRIGATION SYSTEM.
- B. TREES AND SHRUBS SHALL BE REPLACED IN-KIND PER THE LANDSCAPE PLAN AND WRITTEN INSTRUCTIONS AS THEY DIE OR ARE SUBSTANTIALLY DECLINING. THESE CONDITIONS APPLY TO THE LIFE OF THE STRUCTURE.

8. PROTECTION OF EXISTING VEGETATION:

- A. PRIOR TO ANY SITE DEVELOPMENT ACTIVITIES, TEMPORARY 3 FEET TALL NYLON 1" SQ. MESH FENCING SHALL BE PLACED 1 FT. OUTSIDE OF THE DRIP LINE OF ALL VEGETATION WHICH IS IDENTIFIED FOR RETENTION.
- B. SPECIFICALLY THE SHORE PINES TO THE IMMEDIATE SOUTH-WEST OF THE PROPOSED RESIDENCE WHICH ACT AS VISUAL SCREENING FROM VIEWPOINTS ALONG HIGHWAY ONE.
- C. NO CONSTRUCTION ACTIVITES, VEGETATION REMOVAL, EXCAVATION, MATERIALS OR EQUIPMENT STORAGE SHALL BE PERMITTED WITHIN THE DRIPLINE OF THESE TREES.

9 of 10



3
LI

TREE PLANTING DETAIL

SCALE: 3/8" = 1'-0"



PINUS CONTORTA (SHORE PINE)
15' TO 30' HEIGHT AND WIDTH
5 OR 15 GALLON SIZES



GARRYA ELLIPTICA (COAST SILK TASSEL)
SHRUB OR SMALL TREE: 8' TO 20' HEIGHT & WIDTH
5 OR 15 GALLON SIZES

2
LI

LANDSCAPE LEGEND

10 of 10

David Roy Duncan

Civil and Structural Engineer
PO Box 1348 Mendocino, CA 95460

Roost Residence
Rainwater Collection and Dispersal System
12-23-02

(Supersedes report dated 10-14-02)



By
David Duncan, C.E.
707-964-9604
PO Box 1348
Mendocino, CA 95460
©2002

EXHIBIT NO. 5

APPLICATION NO.

A-1-MEN-043-A1

ROOST

STORMWATER DRAINAGE
CALCULATIONS & PLAN

(EXCERPTS) (1 of 9)

Roost Residence Rainwater Collection & Dispersal System Design Report
December 23, 2002. Note this report supersedes an earlier version dated October 14,
2002

TABLE OF CONTENTS

TABLE OF CONTENTS	2
1. INTRODUCTION.....	3
2. DESIGN METHOD	3
3. ASSUMPTIONS & LIMITATIONS	4
4. RAINWATER DISPERSAL SITE PLAN	5
5. TIGHTLINE SCHEMATIC	6
5. CONCLUSIONS.....	7
APPENDIX 1-CALCULATIONS	8

2099

1. INTRODUCTION

This report will describe a rainwater collection and dispersal system for the proposed Roost Residence at 45501 Headlands Drive, Little River, California. The system will collect rainwater from the roof and direct these flows into tightlines that will discharge the rainwater into an existing surface drainage swale that parallels Headlands Drive. This will prevent concentrated surface water flows as described in the Geotechnical Investigation by Bace Geotechnical dated November 14, 2002. By beginning the tightlines at the gutter elevation, there will be enough head to force the water through the drain lines into the existing grassy swale. The California Coastal Commission recommends designing with an 85th percentile storms. In addition, the Rational method with a 10-year storm will be calculated. The results of the two methods will be compared and the worst case used in design. Both methods will look at a 1-hour and 24-hour storm.

The term 'tightline' as used in this report refers to a piping system that is designed to withstand water pressure.

Note, this report supersedes an earlier report dated October 14, 2002. The main difference between the earlier report and this one is that this design discharges the rainwater via gravity through tightlines from the rooftop gutters into an existing roadside surface swale that parallels Headlands Drive in lieu of the previously proposed discharge into a system of leach trenches.

2. DESIGN METHOD

A system demand will be calculated based on the more severe of two hydrological calculation methods. The demand will then be compared to the capacity of the proposed system. The demand will be divided into various areas on the roof. Each area will then be fed into a tightline downspout at the rooftop gutter elevation. The downspouts will then be feed into one of two tightlines. Two main tightlines will be used, one on the west side of the house and one on the east side of the house. The capacity of each main tightline will be calculated. The tightlines will discharge into an existing grassy swale that runs alongside Headlands Drive. The capacity of the grassy swale will also be verified.

The demand will be established based on estimating the amount of rainfall collected in the roof drainage system. Two methods will be used, an 85th percentile 1-hour and 24-hour storms with a safety factor of two and the Rational method with a 10-year storm event with using a time of concentration of 10 minutes and 24-hours. The results of the two calculation methods will be compared and a 'design' storm will be used to size the system. The 85th percentile storm information comes from the

399

California Coastal Commission and rainfall curves for the rational method are from Mendocino County.

3. ASSUMPTIONS & LIMITATIONS

Several assumptions are made in this report. It is assumed that the rainfall intensity curves for the City of Fort Bragg are valid for Little River. Note that both locations are located on a coastal bluff within 12 miles of each other at approximately the same elevation.

It is also assumed the driveways, walkways, and site grading will all be constructed so that surface flow is maintained and no concentrated flows are developed. Consequently, the system is sized to carry rainfall only from the roof. No other areas contribute to the drainage area.

It will be assumed that all roof surfaces are 100% impermeable.

Note that hydrology is an imprecise science based upon approximations. This report is based on recognized formulas and assumptions. This design does not guarantee that the drainage systems will not be overloaded during extreme storm events. The design accommodates 85th percentile 1-hour and 24-hour storms and a 10-year storm using the Rational method.

This design is based on an Enlarged Site Plan, Roost Residence-45501 Headlands Dr. prepared by Leventhal/Schlosser Architects dated 8-27-02.

4 of 9

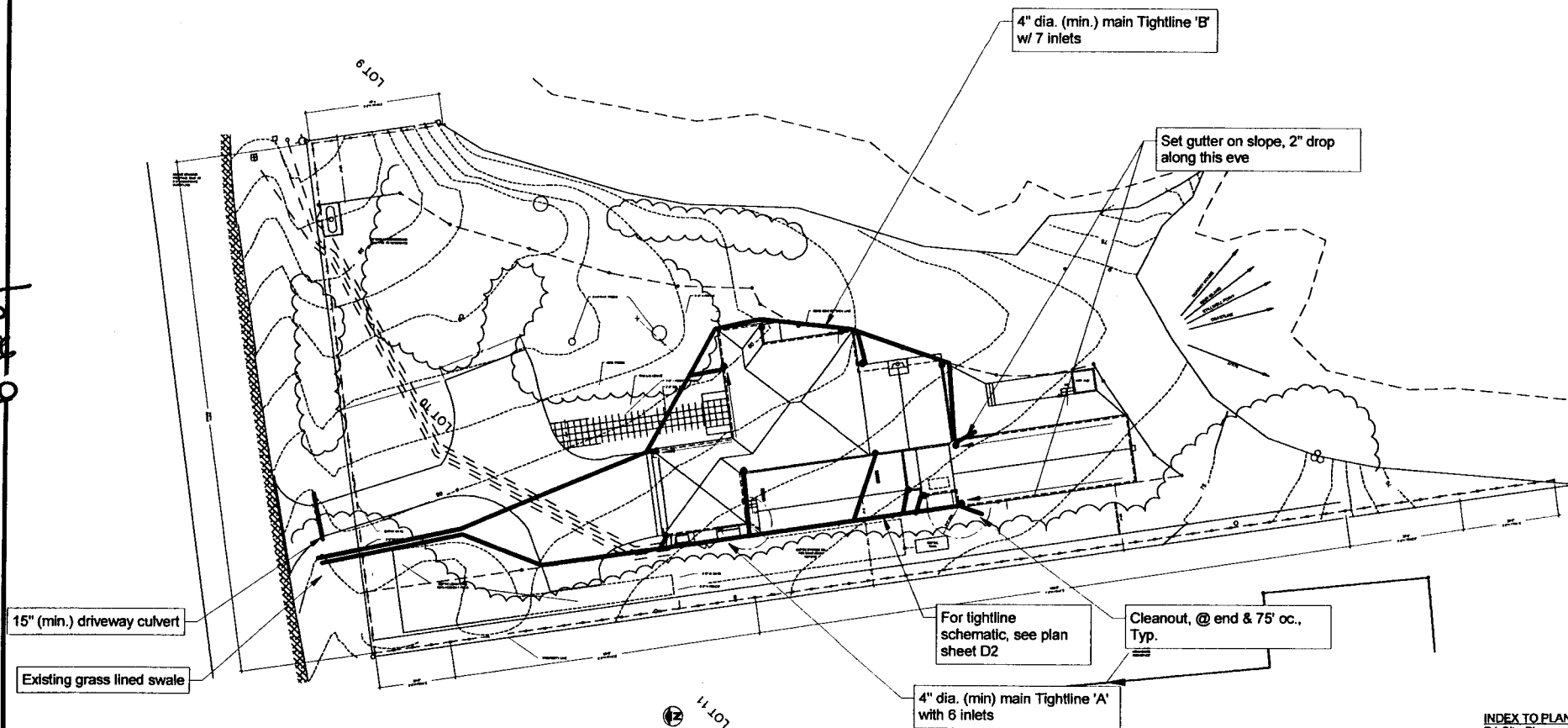
David Roy Duncan

Civil and Structural Engineer
PO Box 1348 Mendocino, CA 95460

4. RAINWATER DISPERSAL SITE PLAN

5 of 9

6/29



NOTES

1. Drawing based on plans prepared by LSA Architects.
2. Finished floor elevation 79.5', top of gutter elevation 89.5' (all gutters same elev.).
3. All rainwater lines buried 12" below finished grade.
4. All downspout shall have copper screens.
5. Owner shall clean roof of leaves, duff, & debris as required to maintain clean gutters.
6. For details of tightlines, see sheet D2.
7. Maximum curvature of elbows shall be 45 degrees.

1
D1

RAINWATER DISPERSAL SYSTEM

Scale: 1:384

©2002 D. Duncan
do not reproduce without
prior written permission

INDEX TO PLANS
D1 Site Plan
D2 Tightline Schematic

Any previous plans superseded by these plans

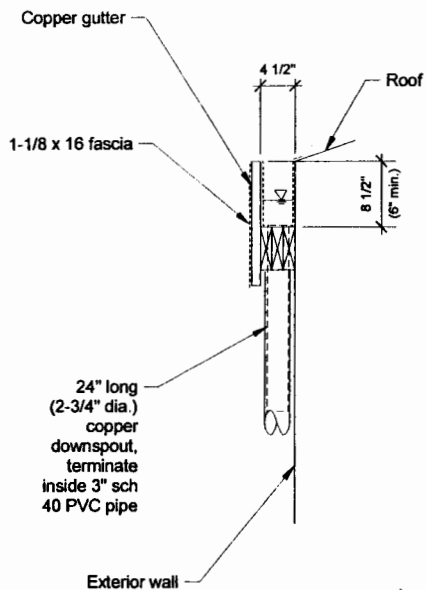
Roost Residence 45501 Headlands Drive Little River, CA 95456	12-23-02
Rainwater Collection & Dispersal System Site Plan	D1

David Roy Duncan

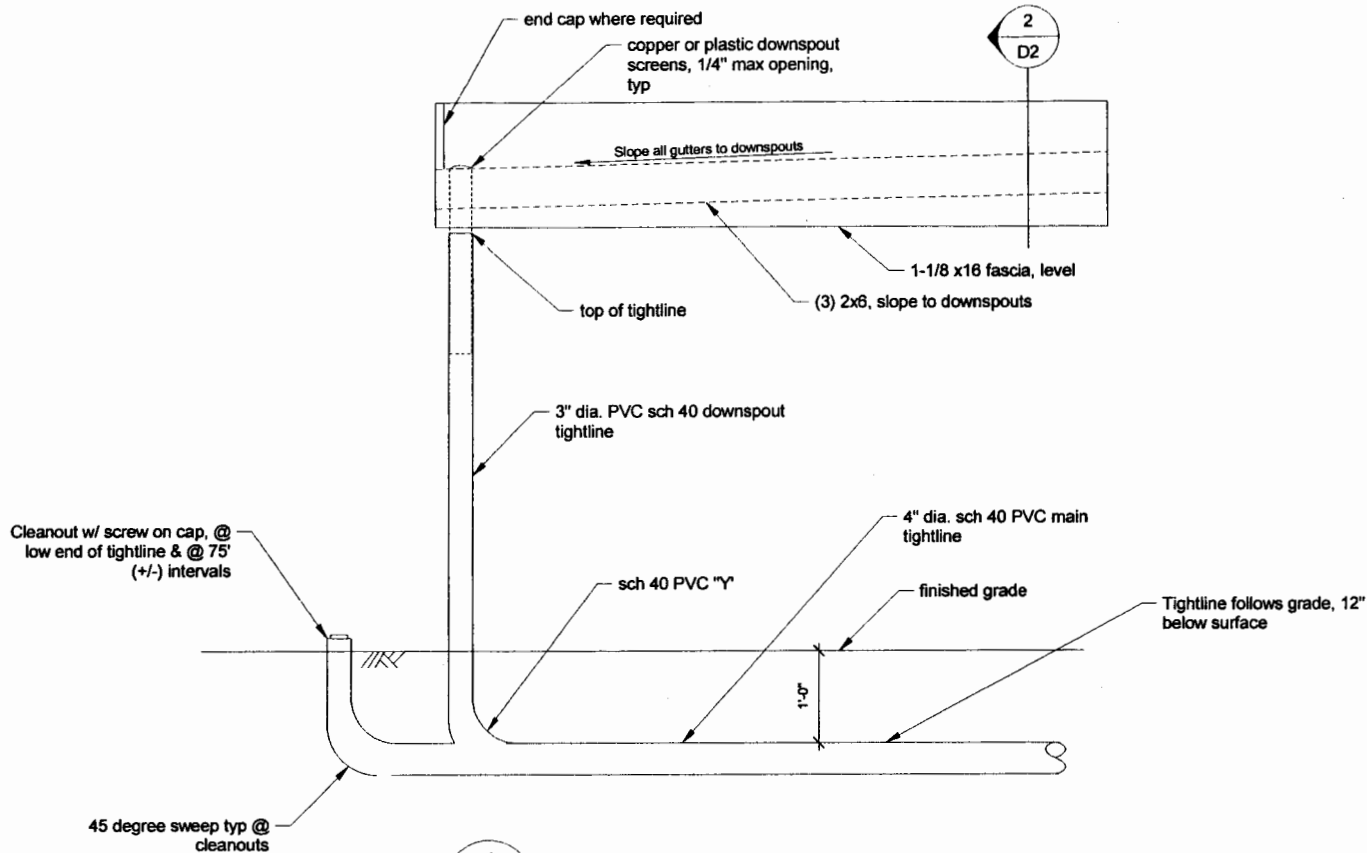
Civil and Structural Engineer
PO Box 1348 Mendocino, CA 95460

5. TIGHTLINE SCHEMATIC

7 of 9



2
D2
GUTTER SECTION
Scale: 3/4" = 1'-0"



1
D2
TIGHTLINE SCHEMATIC ELEVATION
Scale: 3/4" = 1'-0"

NOTES

1. After installation, the contractor shall demonstrate the watertightness of tightline. Outlet end shall be plugged and water shall be placed up to the top of the tightline and the water level shall not drop more than 1" in 4 hours.
2. PVC tightlines may be covered with architectural finishes above ground.
3. Contractor is responsible for coordinating the location of other utilities to avoid interference.
4. Tightlines shall be placed at least 24" away from parallel house walls & footings.

Roost Residence
45501 Headlands Drive
Little River, CA 95456

12-23-02

Rainwater Collection & Dispersal System
Tightline schematic

D2

© 2002 D. Duncan
do not reproduce without
prior written permission

5. CONCLUSIONS

Based on the calculations, the proposed roof drainage system will be adequate to handle a design storm. This rational method using a 10-year storm with a 10 minute time of concentration governs the design.

The components of the system are as follows:

All construction shall conform to the latest edition of the 2001 California Building Code, Uniform Plumbing Code and the National Electric Code.

i Tightline

The rainwater shall be collected in the gutters. Two tightlines shall be installed on the west side and the eastside of the residence. Tightlines shall be Schedule 40 PVC installed on the bottom side of the gutters as shown in the attached drawings. The tightlines shall be 3" diameter above ground and 4" diameter below ground. The pipe shall be buried 12" deep in areas of no traffic and 24" deep in areas of traffic. All tightline plumbing shall conform to the Uniform Plumbing Code (UPC). The pipelines shall be designed to withstand water pressures of at least 12 psi. Screens w/ 1/4" maximum openings shall be placed in the downspouts and the discharge pipes.

Any deviations from the plans shall be approved by the engineer prior to construction. All dimensions shall be field verified before ordering any material.

9 of 9

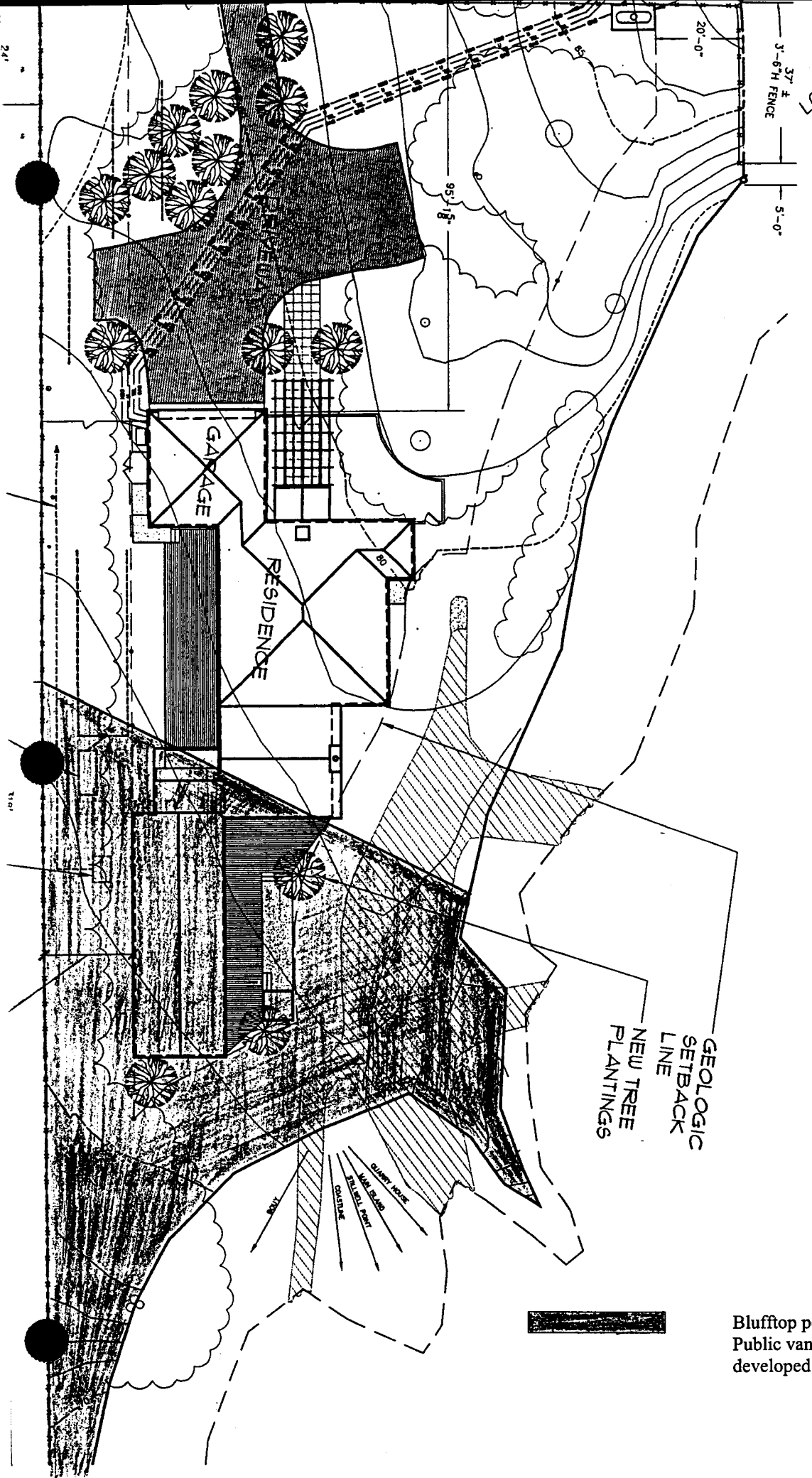


EXHIBIT NO. 6
APPLICATION NO. A-1-MEN-043-A1
ROOST
SITE VISIBILITY STUDY MAP

Blufftop portions of the parcel visible from Public vantage points for which structures developed therein would require landscaping

NEIGHBORHOOD COMPATIBILITY STUDY

EXHIBIT NO. 7

APPLICATION NO.

A-1-MEN-043-A1

ROOST

NEIGHBORHOOD

COMPATIBILITY STUDY

(1 of 15)

As we have discussed in past correspondence relating to this project, one of the findings that the Commission must make is that the proposed amended project would be consistent with the requirements LUP Policy 3.5-1 that permitted development be "visually compatible with the character of surrounding areas," and, "in highly scenic areas designated by the County of Mendocino Coastal Element shall be subordinate to the character of its setting." With regard to this latter criterion, a "neighborhood compatibility study" is customarily used to establish the characteristics of the surrounding area and setting of the project site. Typically, these studies are comprised of a narrative description of the physical location of the project site and its surroundings, in terms of natural and built environment elements, and includes an inventory of the types, styles, sizes, and locations of structures within the adjoining neighborhood area.

The study submitted with the permit amendment request consisted of a table summarizing the size and type of the various residences constructed on the lots within the Little River Headlands Subdivision. Photographs of the structures on the developed lots were also included. However, in addition to the proposed residence and garage structures, the amendment requests authorization to construct approximately 530 lineal feet of fencing, ranging from 3' 6" to 7' 9" in height, along the front and western property lines. No information was included within the compatibility study regarding fencing on the other lots within Little River Headlands development.

- As the proposed fencing would make a substantial contribution to the exterior appearance of the proposed residential improvements at the site, supplementary information is needed so that we may conclude that the fencing would be compatible with the similar surrounding development. Please provide an addendum to the compatibility study detailing the types, heights, and extent of fencing on other lots within the Little River Headlands Subdivision neighborhood. In addition please indicate what if any existing vegetation may exist in proximity to the proposed fencing and how that vegetation might screen or soften the appearance of the fence within those areas on the parcel visible from public vantage points (see Exhibit No. 11 of the November 22, 2002 revised findings staff report).

RESPONSE: Addendum to compatible study. I have enclosed a number of colored photographs enlarged to 11" X 17" that show the fencing within the Little River Headlands Subdivision. Almost all of the lots have single family residences. The Langer's are currently under construction of their SFR on parcel 2. Parcel 6 is owned by Glen Ricard and does not contain a residence but is fenced on all three sides. It has been used as a site for a horse. Lot #14; Uhlmann contains the septic system for Uhlmann's residence on Lot #15. The only Lot not built on in the subdivision is the Roost Lot #10. This past week I visited the subdivision and inventoried the fencing. As you know there is a metal sliding entrance gate that is approximately 20' across. Adjacent to the gate is a pass through pedestrian gate. These gates are approximately 6'-8' high. Around the entrance gate is approximately 380' of fencing. Of this 380 feet of fencing approximately 280' is solid 6' high grape stake fencing. The other 100 feet of fencing is approximately 4' high with 2"-3" spacing between the boards. There is no fencing around lots 1-4 that are on the north side of Headlands Drive. Lots 5, 6, and 7 are fenced on all three sides right to the bluff. Most of the fencing is 40" high. There is fencing on the east side of the Tower lot (8) and a small amount of fencing on the Burke parcel (9). There is fencing on the east side of the Weikel property (11) and on the east side of the Abramson parcel (12) This is solid fencing 6-7" high that runs approximately 40' in length. Lots 14 and 15 (Uhlmann) are fenced in the front. The fencing is approximately 3 1/2 feet high. The Calof parcel has a low fence along the street which is about 2' high. All the fencing is shown on the Map marked #3... The whole subdivision contains a substantial number of pine trees. The subject parcel lot #10 has 8 pine trees on the north side that are 15-40' in height. There are 13 trees on the east side that are from 5-15 feet in height and there are 6 trees on the west side adjacent the Weikel property line that are 20-50' in height... All the trees are pine.

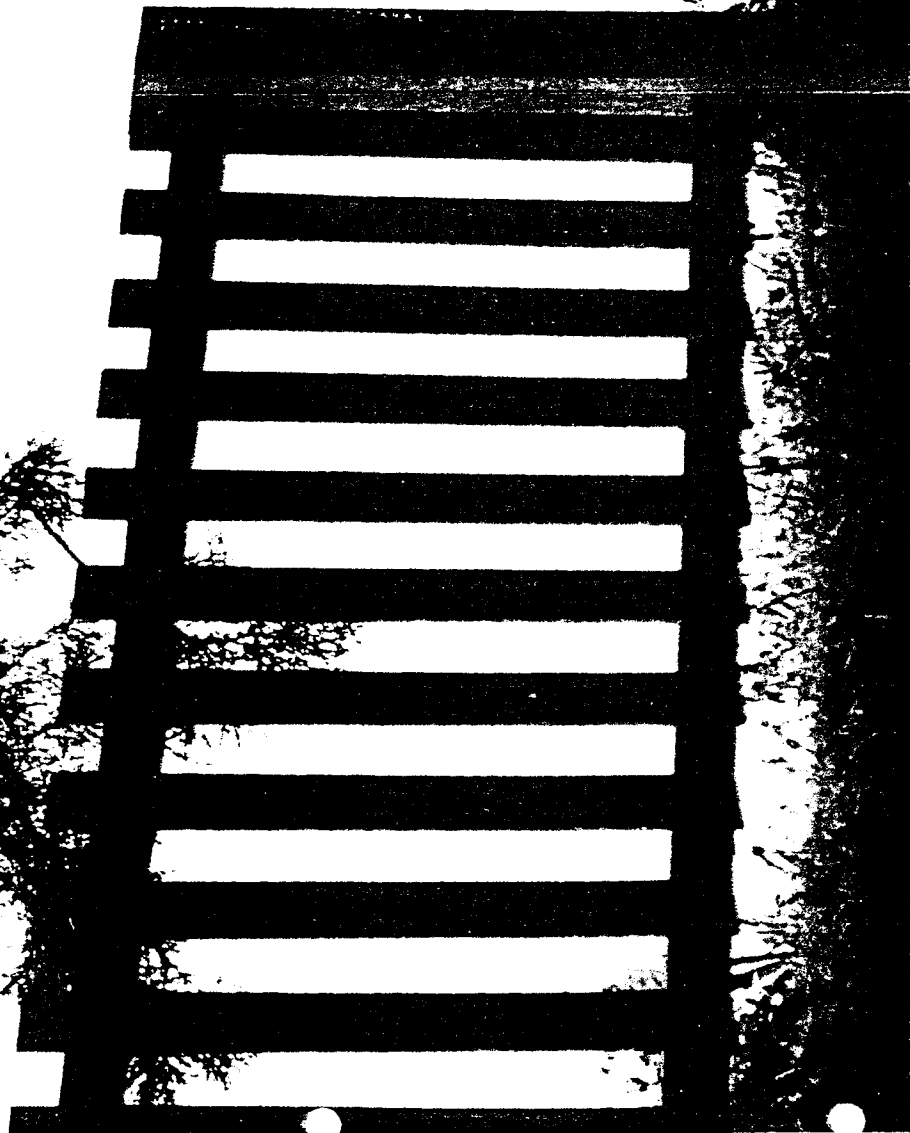
2015



Lot #7 (Graves) Lot #8 (Tower)
Side fence to the bluff.

3 9 15

Lot #7 Graves; Lot #8 Tower
Close up; shows fence to the bluff
with VanDamme beach in the background



4 of 15

Lot #5 - Ricard property
East side fence going to the bluff

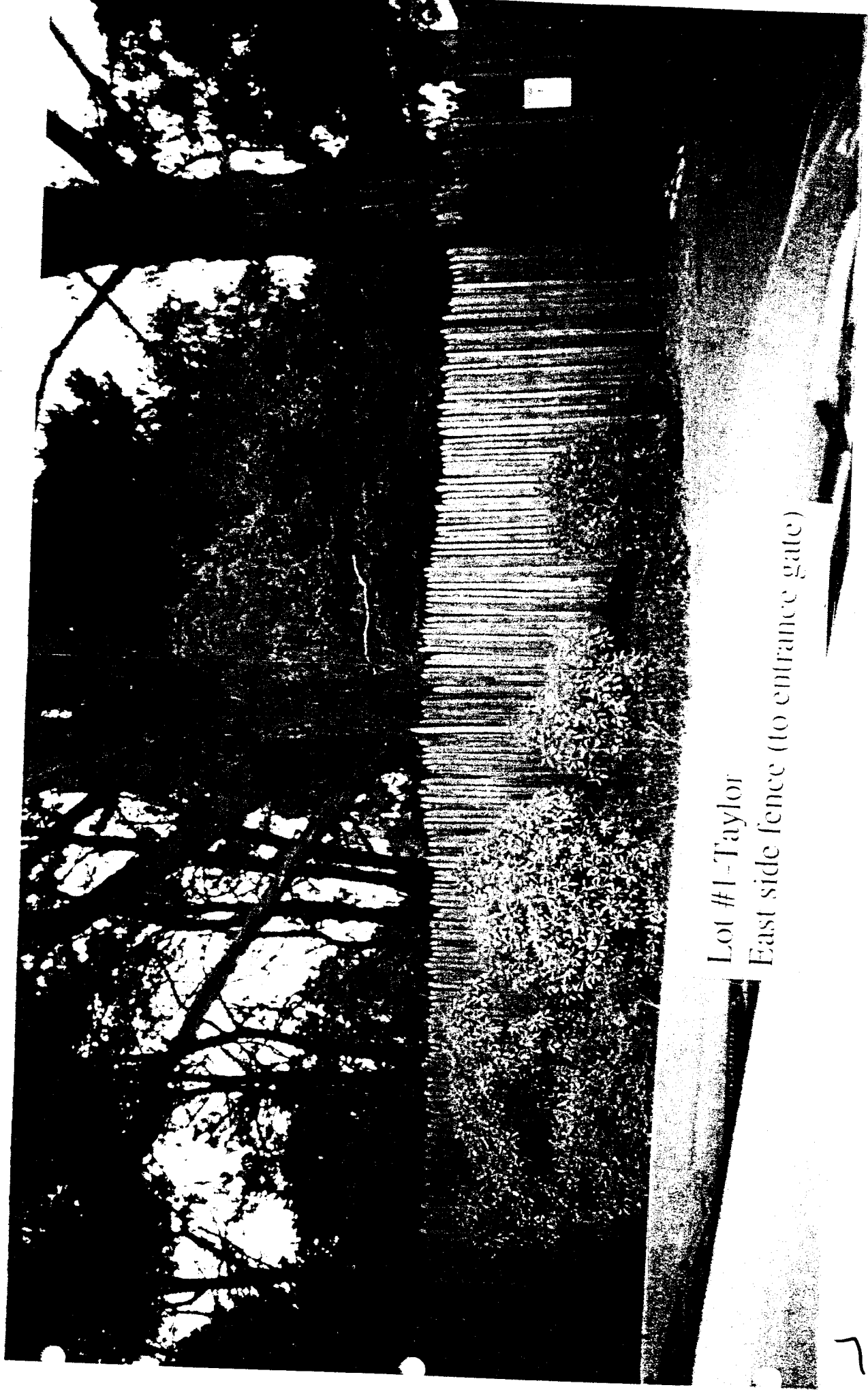


5415



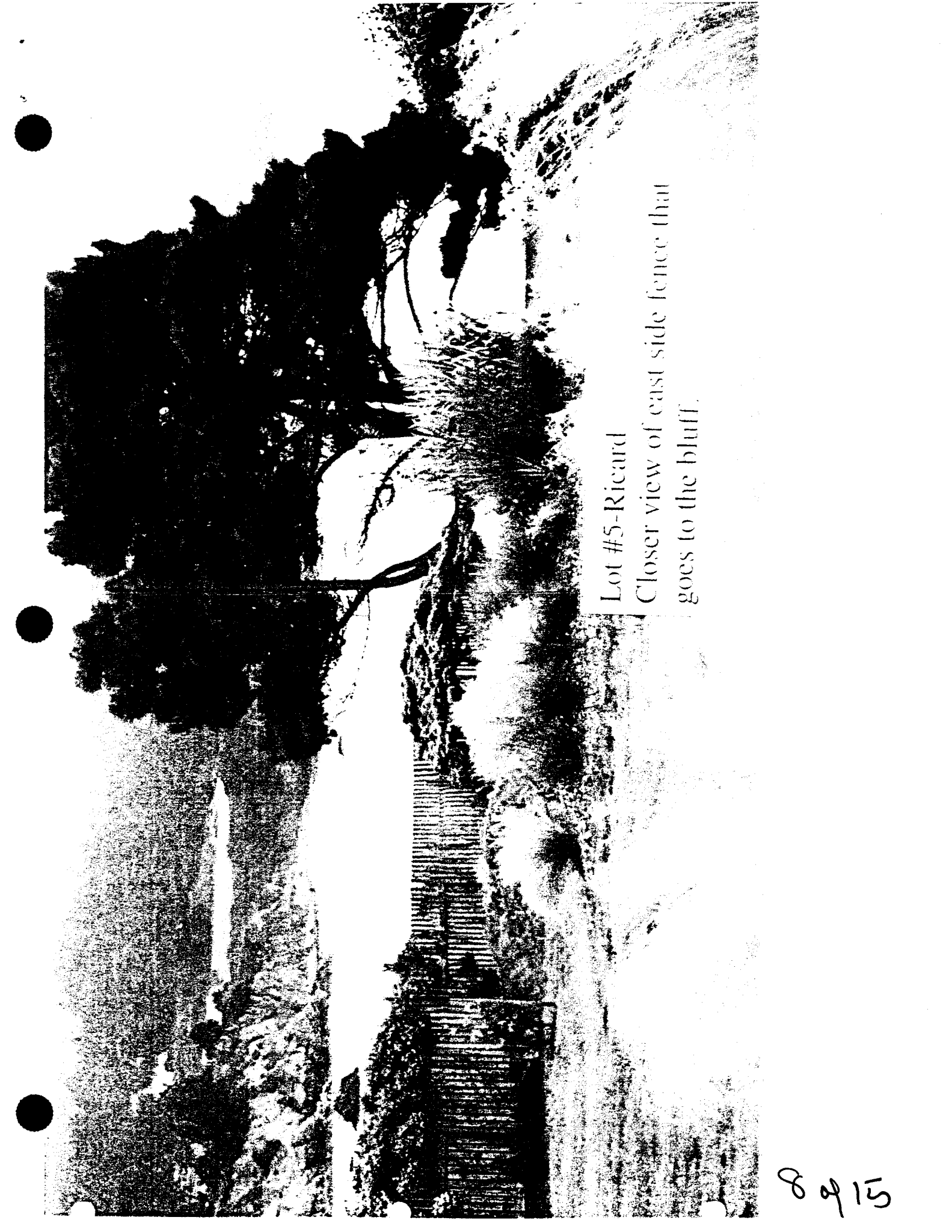
Lot # 7-Graves
Side fence to the bluff

6 915



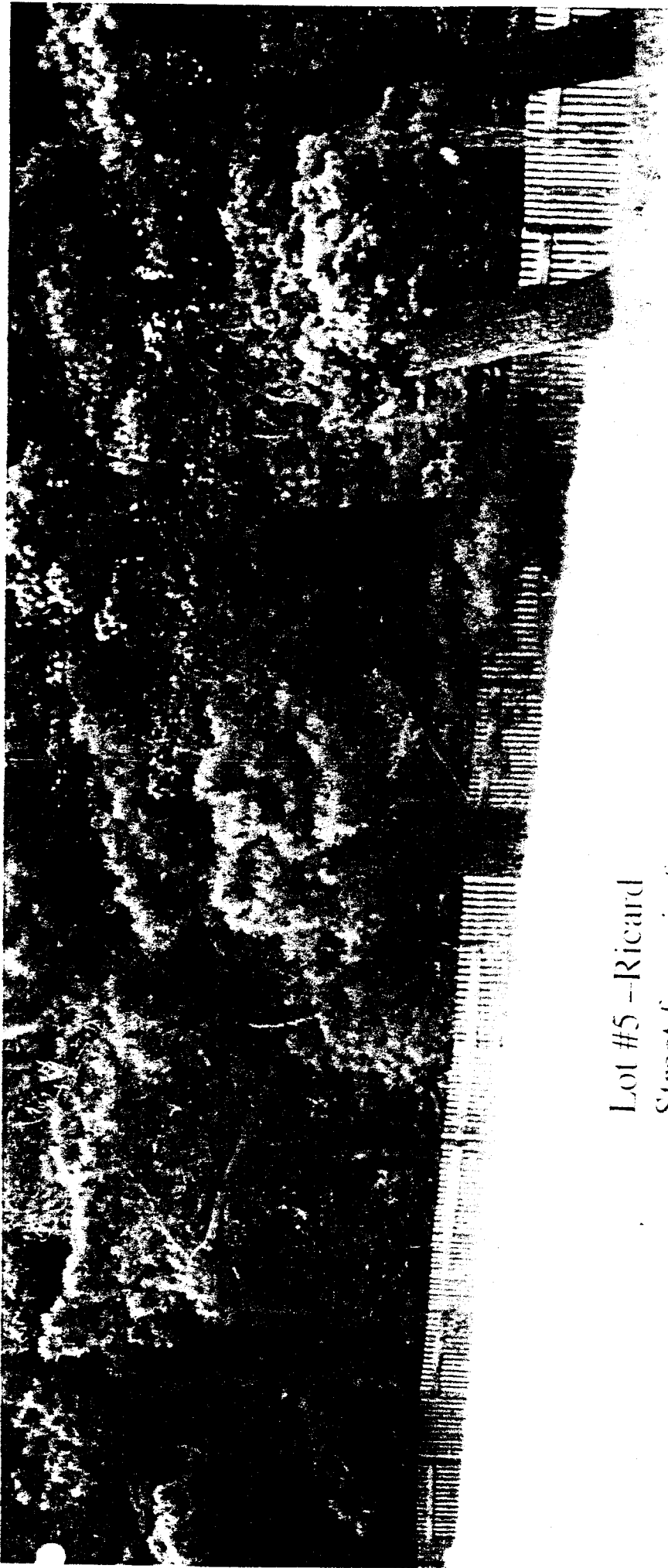
Lot #1-Taylor
East side fence (to entrance gate)

7 of 15




Lot #5-Ricard
Closer view of east side fence that
goes to the bluff.

8 of 15



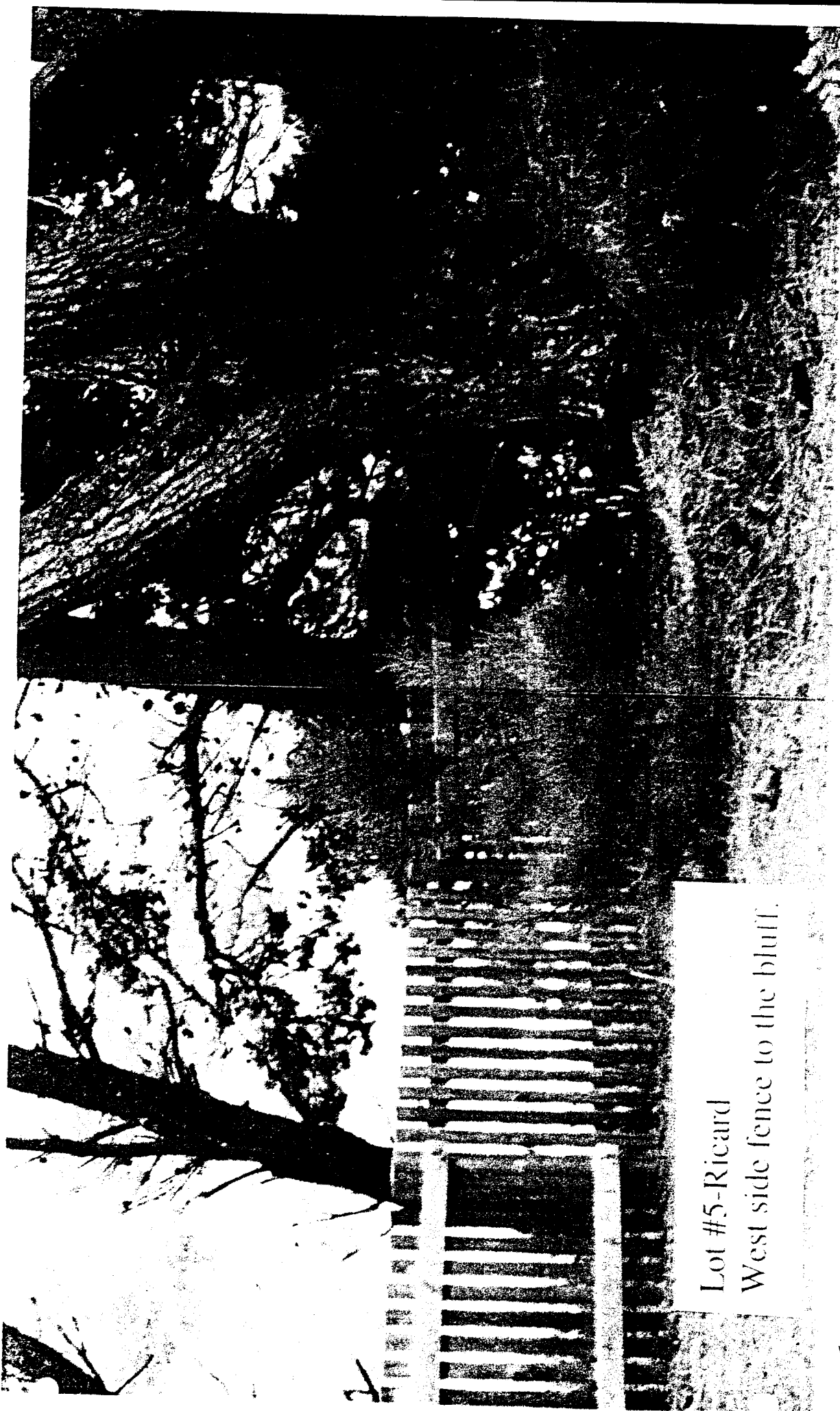
Lot #5 - Ricard
Street fence in front of Ricard property.

9 of 15

A black and white photograph showing a wooden fence made of vertical slats. To the left of the fence is a dense thicket of tall, thin grasses or reeds. A path or clearing leads away from the fence towards the background. The image is oriented horizontally on the page.


Lot #5 - Ricard
East side fence

10 of 15



Lot #5-Ricard
West side fence to the bluff.

11 of 15



Lot #15 — Uhlmann
Double electric entrance gate.

12915

Lot #11 Weikel and Lot #12 Abramson
Fence between two parcels goes way down
between the two houses.



13415



Lot #12 and Lot #15
Abramson and Uhlmann
Fence to the bluff.

14 of 15

Lot #13 and Lot #15
Allen lot and Uhlmann lot
Shows street and to the bluff
between Uhlmann lot and Allen
lot.



15 of 15

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



F8a

Staff: Jim Baskin
Staff Report: November 22, 2002
Hearing on Revised Findings: December 13, 2002
Commission Action
On Revised Findings:

STAFF REPORT: REVISED FINDINGS**REGULAR CALENDAR -- COASTAL DEVELOPMENT PERMIT *DE NOVO***

DECISION: Approval with Conditions

APPLICATION NO.: A-1-MEN-01-043

APPLICANTS: David and Suzanne Wright

CURRENT OWNERS: Ken and Jill Roost

AGENT(S): Bud Kamb

APPELLANT: Wendy Weikel

PROJECT LOCATION: 45501 Headlands Drive, Little River, Mendocino County,
APN 121-260-10.

PROJECT DESCRIPTION: Construction of a 2,550-square-foot, 18-foot-high, single-family residence with a 625-square-foot detached garage, onsite sewage disposal system, extension of utilities, and installation of 2,500-square-feet of paving for a driveway.

COMMISSIONERS ON THE PREVAILING SIDE: Commissioners Desser, Detloff, Hart, Nava, Potter, Reilly, Wooley, and Wan

EXHIBIT NO. 8**APPLICATION NO.**

A-1-MEN-043-A1

ORIGINAL PROJECT COASTAL
DEVELOPMENT PERMIT
ADOPTED FINDINGS STAFF
REPORT (1 of 35)

SUBSTANTIVE FILE
DOCUMENTS:

- 1) Mendocino County CDB No. 17-01; and
- 2) County of Mendocino Local Coastal Program.

STAFF NOTES:

1. **Procedure.**

The Commission held a public hearing and approved the application on appeal *de novo* at its meeting on May 10, 2002. The Commission found the project consistent with the policies of the certified LCP and the access policies of Chapter 3 of the Coastal Act with certain specific conditions. The adopted conditions of approval differ from those contained in the written staff recommendation dated April 19, 2002. The revised Special Condition Nos. 1 and 2 are found on page 3 through 5. The primary changes to the findings regarding Special Condition Nos. 1 and 2 are found within the Geologic Hazards and Site Stability finding on pages 12 through 25. The primary change to the conditions and findings requires all approved development to be set back ten feet (rather than 25 feet) from the blufftop projection of the back of any sea caves in addition to the required 25-foot setback from the existing bluff edge.

As the Commission's action differed from the written staff recommendation, staff has prepared the following set of revised findings for the Commission's consideration as the needed findings to support its action. The Commission will hold a public hearing and vote on the revised findings at its December 10-13, 2002 meeting. The purpose of the hearing is to consider whether the revised findings accurately reflect the Commission's previous action rather than to reconsider the merits of the project or the appropriateness of the adopted conditions. Public testimony will be limited accordingly. The following resolution, conditions, and findings were adopted by the Commission on May 10, 2002 upon conclusion of the public hearing.

I. **MOTION AND RESOLUTION:**

Motion, Staff Recommendation and Resolution to Adopt Revised Findings:

The staff recommends that the Commission adopt the revised findings in Section IV below in support of the Commission's action on May 10, 2002 approving the project with conditions. The proper motion is:

Motion:

I move that the Commission adopt the revised findings dated November 22, 2002 in support of the Commission's action on May 10, 2002, approving Coastal Development Permit No. A-1-01-043.

2 of 35

Staff Recommendation of Approval.

Staff recommends a **YES** vote on the motion. Passage of this motion will result in the adoption of revised findings as set forth in this staff report. Pursuant to Section 30315.1 of the Coastal Act, adoption of findings requires a majority vote of the members from the prevailing side present at the May 10, 2002 Commission hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote. See the list of eligible Commissioners on page 1.

Resolution to Adopt Revised Findings:

The Commission hereby adopts the findings set forth below for Coastal Development Permit No. A-1-01-043 on the ground that the findings support the Commission's decision made on May 10, 2002 and accurately reflect the reasons for it.

ADOPTED RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development, as conditioned will be in conformity with the certified County of Mendocino LCP, is located between the sea and the nearest public road to the sea and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS: See attached.

III. SPECIAL CONDITIONS:

1. Revised Site and Erosion/Runoff Control Plans

- A. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-01-043,** the applicant shall submit revised site and erosion & runoff control plans to the Executive Director for review and approval. The revised plans shall substantially conform with the site plan and landscaping plan submitted to the County of Mendocino Department Planning & Building Services on February 12, 2001 and May 17, 2001, respectively, and received by the Commission on August 2, 2001 as Exhibits C, H, I, and J, respectively, of the June 28, 2001 staff report contained in the County's public record for the project, except that the plans shall also provide for the following changes to the project:

1) Site Plan Revision

- a. All structural improvements, including the proposed residence, garage, and leach field for the on-site wastewater treatment system shall be setback at least twenty-five (25) feet from the bluff edge, as well as an additional ten (10) feet from the bluff-top projection of the back of all sea cave walls underlying the site. In addition, these improvements shall be set back at least six (6) feet from side property lines, and at least twenty (20) feet from the front property line.

2) Erosion and Runoff Control Plan

- a. The proposed erosion and runoff control facilities, comprised of the rooftop collection, conveyance, and leachfield treatment system, and the driveway runoff absorption area, shall be redesigned as follows:
 - (i) The erosion and runoff control facilities shall be sited within those portions on the northernmost 100 feet of the project parcel situated outside of all blufftop edge and sea cave setbacks so as to accommodate the relocation of residential and accessory structures required by subsection 1.A.1)a; and
 - (ii) Runoff from the driveway shall be collected and conveyed either into a driveway runoff absorption area redesigned to account for the topographical constraints affecting the development as resited or a leachfield treatment system properly designed and sized to accept the driveway runoff. This system may be combined with the roof stormwater leachfield treatment system provided such a combined system is consistent with subsection 1.A.2)a.(i) above and is designed and sized to accept the runoff from both the roof and driveway. Alternately, the driveway may be constructed to have a permeable gravel surface with no leachfield treatment required.

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

2. Conformance of the Design and Construction Plans to the Geotechnical Report

- A. All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with the recommendations contained in the geotechnical report dated November 14, 2001 prepared by BACE Geotechnical Consultants, except that the

4 of 35

plans shall be revised consistent with Special Condition 1, including but not limited to the requirement that all structures shall be setback at least 25 feet from the bluff edge and an additional ten feet (10') from the blufftop projection of the back of all sea cave walls underlying the site. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, evidence that a licensed professional (Certified Engineering Geologist or Geotechnical Engineer) has reviewed and approved all final design, construction, and drainage plans and has certified that each of those plans is consistent with all of the recommendations specified in the above-referenced geotechnical report approved by the California Coastal Commission for the project site.

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

3. **No Future Bluff or Shoreline Protective Device**

- A(1) By acceptance of this permit, the applicants agree, on behalf of themselves and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. A-1-MEN-01-043, including, but not limited to, the residence, foundations, garage and driveway in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, ground subsidence or other natural hazards in the future. By acceptance of this permit, the applicants hereby waive, on behalf of himself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235 or under the policies of the Mendocino County Land Use Plan and Coastal Zoning Code Chapter 20.532.
- A(2) By acceptance of this permit, the applicants further agrees, on behalf of themselves and all successors and assigns, that the landowner shall remove the development authorized by this permit, including the residence, garage, foundations, and driveway, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.
- A(3) In the event the edge of the bluff recedes to within 10 feet of the principal residence but no government agency has ordered that the structures not be occupied, a geotechnical investigation shall be prepared by a licensed geologist or civil engineer with coastal experience retained by the applicant, that addresses whether any portions of the residence

5 of 35

are threatened by wave, erosion, storm conditions, or other natural hazards. The report shall identify all those immediate or potential future measures that could stabilize the principal residence without shore or bluff protection, including but not limited to removal or relocation of portions of the residence. The report shall be submitted to the Executive Director and the appropriate local government official. If the geotechnical report concludes that the residence or any portion of the residence is unsafe for occupancy, the permittee shall, within 90 days of submitting the report, apply for a coastal development permit amendment to remedy the hazard which shall include removal of the threatened portion of the structure.

- B. **PRIOR TO THE ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-01-043**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the above restrictions on development. The deed restriction shall include a legal description of the applicants' entire parcel. The deed restriction shall run with the land binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

4. **Assumption of Risk, Waiver of Liability and Indemnity Agreement**

- A. By acceptance of this permit, the applicants acknowledge and agree: (i) that the site may be subject to hazards from landslide, bluff retreat, erosion, subsidence, and earth movement; (ii) to assume the risks to the applicants and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

5. Design Restrictions

- A(1) All exterior siding of the proposed structures shall be composed of natural or natural appearing materials, and all siding and roofing of the proposed structures shall be composed of materials of dark earthtone colors only. The current owner or any future owner shall not repaint or stain the house with products that will lighten the color the house as approved. In addition, all exterior materials, including roofs and windows, shall be non-reflective to minimize glare; and
- A(2) All exterior lights, including any lights attached to the outside of the buildings, shall be the minimum necessary for the safe ingress and egress of the structures, and shall be low-wattage, non-reflective, shielded, and have a directional cast downward such that no light will shine beyond the boundaries of the subject parcel.
- B. **PRIOR TO THE ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-01-043**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the above restrictions on development. The deed restriction shall include a legal description of the applicants' entire parcel. The deed restriction shall run with the land binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

6. Approved Design for Relocated Septic Disposal System

In the event the permittee reconfigures the proposed development pursuant to Special Condition No. 1 in a manner that requires relocating the proposed septic disposal system, **PRIOR TO THE ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-01-043**, the permittee shall submit evidence for the review and approval of the Executive Director that the Mendocino County Department of Public Health's Division of Environmental Health has made a preliminary determination that the relocated septic system will be adequate to serve the approved development.

7. Conditions Imposed By Local Government.

This action has no effect on conditions imposed by a local government pursuant to an authority other than the Coastal Act.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares as follows:

7 of 35

A. Project History / Background.

The subject parcel is Lot 10 of the Little River Headlands Subdivision, created by parcel map in 1965. The site is one of fifteen blufftop lots located west of Highway One on Headlands Drive, a private road located at the western terminus of Peterson Lane, approximately ½ mile northwest of the unincorporated town of Little River and just north of the beach at Van Damme State Park (see Exhibit No. 2).

On February 7, 2001, Bud Kamb, agent-of-record for David and Suzanne Wright, submitted Coastal Development Permit Application No. 17-01 (CDP #17-01 to the Mendocino County Planning and Building Services Department for a coastal development permit seeking authorization to construct a single-family residence, detached garage, onsite sewage disposal system, extension of utilities, and a paved driveway on an approximately one-acre parcel.

On June 28, 2001, the Coastal Permit Administrator for the County of Mendocino approved Coastal Development Permit No. #17-01 (CDP #17-01) for the subject development. The Coastal Permit Administrator attached a number of special conditions, including requirements that: (1) final paint color be submitted, reviewed and approved by the Coastal Permit Administrator prior to issuance of the coastal development permit; (2) building materials and finishes match those specified in the permit application; (3) site landscaping be installed and maintained consistent with the approved landscaping plan; and (4) a deed restriction be recorded stating that the landowner shall not construct shoreline protective devices and shall remove the house and foundation when bluff retreat reaches the point when the structure is threatened. The Coastal Permit Administrator did not attach conditions expressly requiring the house to be built in conformance with the recommendations of the geotechnical report.

The decision of the Coastal Permit Administrator was not appealed at the local level to the County Board of Supervisors. The County then issued a Notice of Final Action on July 9, 2001, which was received by Commission staff on July 10, 2001.

On June 19, 2001, the project was appealed by Wendy Weikel. The appeal cited numerous inconsistencies between the project as approved by the County and the policies of the County's certified LCP. On September 13, 2001, the Commission found that a Substantial Issue had been raised with regard to the consistency of the project as approved and the applicable policies of the LCP concerning: (1) geologic stability of the building sites; and (2) conformance with stormwater runoff and drainage standards.

The Commission continued the *de novo* portion of the appeal hearing so that the applicant could provide additional information relating to the substantial issues. Additional geotechnical and drainage assessments were subsequently provided to the Commission. The continued hearing was scheduled for February 13, 2001. At the applicants' request, the continued hearing on the *de novo* portion the appeal was continued from the February 13, 2002 meeting to allow additional time to respond to the Commission's staff geologist's recommendations regarding building setbacks from unstable areas at the project site, particularly areas underlain by sea caves.

8 of 35

B. Project and Site Description.

1. Project Setting

The roughly triangular-shaped property is approximately one acre in size and consists of a generally flat, grass-covered blufftop lot with scattered tree cover along its margins. Plant cover on the blufftop portions of the parcel is comprised of upland grasses, forbs, and shrubs, including coyotebrush (Baccharis pilularis) and bracken fern (Pteridium aquilinum). The property is bordered by thickets of shore pine (Pinus contorta ssp. contorta) on its eastern and western sides. The site does not contain any known environmentally sensitive habitat areas.

The project site lies within the LCP's Russian Gulch and Van Damme State Park Planning Area. The subject property is a vacant, legal non-conforming (to current minimum lot size standards) parcel designated in the Land Use Plan and on the Coastal Zoning Map as Rural Residential - 5-acre Minimum Lot Area (RR:L-5). The subject property is within a highly scenic area as designated on the Land Use Map (see Exhibit Nos. 2, 3 and 4). Due to the property's location within a gated community on a private road, public views to and along the ocean across the property are limited. Additionally, given the 1/4-mile distance to the highway and the presence of other bluff headlands lying between the highway and project parcel, views of the site from Highway One and other public recreational areas are limited to a relatively brief gap in the roadside vegetation along northbound Highway One as it descends the slope to the mouth of Little River, and from the beachfront at the southwestern corner of Van Damme State Park.

2. Project Description

The development entails the construction of a 2,550-square-foot, 18-foot-height, one-story residence and 625-square-foot detached garage with a 2,500-square-foot asphalt driveway and septic system (see Exhibit No. 4). The house and detached garage are proposed to be built in the mid-center of the approximately one-acre parcel with the closest point of the house located 25 feet back from the bluff edge. Water service would be provided to the residence by the Little River Headlands Mutual Water Company. The development would be partially screened by the presence of existing vegetation. To further screen site improvements visible from those public vantage points, the applicants have proposed that additional landscaping be installed along the eastern side of the parcel consisting of one Japanese black pine (Pinus thunbergiana), two shore pines (Pinus contorta), and three coast silk-tassel trees (Garrya elliptica).

C. Planning and Locating New Development.

1. LCP Provisions

LUP Policy 3.9-1 of the Mendocino County Land Use Plan states that new development shall be located within or near existing developed areas able to accommodate it or in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. The intent of this policy is to channel development toward

9 of 35

more urbanized areas where services are provided and potential impacts to resources are minimized.

LUP Policy 3.8-1 states that Highway 1 capacity, availability of water and sewage disposal system and other know planning factors shall be considered when considering applications for development permits.

LUP Appendix No. 6, titled "Division of Environmental Health Land Division Requirements," contains the standards for the development of individual sewage disposal systems for the safe disposal of all human and domestic waste necessary to protect the health of the individual family and the community and to prevent the occurrence of nuisances. Although the appendix represents a compilation of laws, regulations, and policies that are primarily intended for use by those engaged in assessing the environmental health aspects of land divisions in Mendocino County, the standards are also used by the County in considering coastal development permits for new development on existing parcels or where further subdivision is not being proposed. The sewage disposal system standards include criteria addressing: (1) proper design to assure discrete subsurface disposal of wastes; (2) topographic siting constraints; (3) minimum depth-to-groundwater separation requirements; (4) acceptable soil texture and infiltration rate parameters; (5) minimum setback distances for septic tanks and leachfields (see Exhibit No. 7); (6) reservation of a replacement area should the primary system fail; and (7) the cumulative effects of multiple septic systems.

The subject property is zoned in the County's LCP as Rural Residential, 5-Acre Minimum Parcel Size [Rural Residential, 1-Acre Minimum Parcel Size, Conditional with Proof of Water] (RR:L-5 [RR-1]), meaning that there may be one parcel for every five acres, or one parcel per acre with proof of water. Coastal Zoning Code Chapter 20.376 establishes the prescriptive standards for development within Rural Residential (RR) zoning districts. Single-family residences are a principally permitted use in the RR zoning district. Setbacks for the subject parcel are twenty feet to the front and rear yards, and six feet on the side yards, pursuant to CZC Sections 20.376.030 and 20.376.035, respectively. Unless a further increase in height were found to not affect public views or be out of character with surrounding development, the maximum building height is 18 feet above natural grade. CZC Section 20.376.065 sets a maximum of 20% structural coverage on RR lots of less than two acres in size.

2. Discussion

The proposed residence would be constructed within an existing developed residential subdivision known as Little River Headlands. The proposed use is consistent with the Rural Residential zoning for the site. The subject parcel, created in 1965 before adoption of the County's coastal zoning regulations, is a legal, non-conforming parcel of approximately 0.99 acre in size. The applicants propose to construct a total of 5,675 square feet of single-family residential structural improvements, representing approximately 13% lot coverage. The proposed maximum building height is 18 feet. The proposed lot coverage and building height are consistent with the standards for the zoning district. Therefore, the proposed development is

10435

consistent with the LUP and Zoning designations for the site and would be constructed within an existing developed area consistent with applicable provisions of LUP Policy 3.9-1.

The proposed development would be served by off-site community water supply system operated by the Little River Headlands Mutual Water Company. Sewage would be processed by a proposed septic system that has been approved by the Mendocino County Department of Public Health's Division of Environmental Health.

In a comment letter submitted for the Commission's *de novo* review of the project (see Exhibit No. 15), the appellant raises concerns regarding drainage impacts from the proposed location for the primary and reserve sewage disposal leachfields along the northwestern side of the project parcel, adjacent to the adjoining lot to the west owned by her parents. Ms. Weikel contends that the proposed siting for the Wright leachfield system near their common property line is inappropriate as it would result in drainage impacts to the down slope Weikel parcel. Ms. Weikel asserts that locating the leachfield toward the eastern and northern end of the project parcel would prevent the Weikel property from being saturated with drainage. Ms. Weikel also notes the presence of a community water well on the Weikel property and reasons that its water quality may be adversely impacted by leachfield runoff from the Wright parcel. Ms. Weikel further requests that the presence of the water well be included within any final plans for the project and that an analysis of the capacity of project site soils to absorb leachfield effluent given the amount of seasonal precipitation the area receives also be conducted.

With regard to the appropriateness of the design and siting of the proposed sewage disposal system, the Mendocino County DEH approved the system based upon a review of the system's conformance with its sewage disposal system standards (see Exhibit No. 7). This review included consideration of the effects of wastewater infiltration on surface and subsurface drainage in adjacent areas, area topography, and the proximity of the system to nearby water wells. Although a waiver to the 36-inch minimum depth leachfield-to-groundwater separation standard was granted by the DEH authorizing a reduced 33-inch distance, the Deputy Health Officer found the waiver to be supportable, stating, "after reviewing the conditions on the property in question, ...public health will not be endangered nor water quality impaired as a result of issuance of the waiver."

As to the appellant's suggestion that the system should be located further to the northeastern portions of the property, such a relocation has not been determined by the DEH to be necessary and would be constrained by a DEH standard that disposal systems maintain a 50-foot setback from "cut banks, natural bluffs, and sharp changes in slope" (i.e., the bluff edge that runs along the eastern side of the Wright parcel). With respect to setbacks from the adjoining Weikel parcel on the west side of the project parcel, the wastewater disposal system could be located as close as five feet from the property line and comply with DEH standards, provided that minimum setbacks of 50 feet and 100 feet are maintained between the septic tank and leachfield, and the wells on the western side of the Weikel property, respectively. Furthermore, although some difference in elevation may exist between the Wright and Weikel parcels, the amount and intensity of the change does not constitute a cliff, cut bank, or sharp break in slope similar to that along the eastern side of the project parcel where a 50-foot setback would be required.

11 of 35

Accordingly, with respect to the requirements of LUP Policies 3.8-1 and 3.9-1 that the availability, capacity, and adequacy of sewage disposal be demonstrated prior to issuance of a coastal development permit, the Commission finds that the proposed project is consistent with these LCP policies and standards.

As discussed further below, to provide an adequate setback from geologically unstable areas, Special Condition No. 1 requires the house to be moved. The applicants may choose to relocate the septic system under the new site plan that is prepared to satisfy Special Condition No. 1. To ensure that any new location for the septic system is adequate to serve the development, Special Condition No. 6 requires that prior to issuance of the permit, the applicants submit evidence that the County's Department of Public Health – Division of Environmental Health has determined that the septic system as relocated will be adequate to serve the approved development.

Use of the site as a single-family residence is envisioned under the certified LCP. The cumulative impacts on traffic capacity of development approved pursuant to the certified LCP on lots recognized in the certified LCP were addressed at the time the LCP was certified. Therefore, as conditioned, the proposed development is located in an area able to accommodate the proposed development, consistent with the applicable provisions of LUP Policy 3.9-1.

As discussed below, the proposed development has been conditioned to include mitigation measures which will minimize all adverse environmental impacts.

Therefore, the Commission finds that as conditioned, the proposed development is consistent with LUP Policies 3.9-1 3.8-1, and with Zoning Code Sections 20.376 as the development will be located in a developed area, there will be adequate services on the site to serve the proposed development, and the project will not contribute to significant adverse cumulative impacts on highway capacity, scenic values, or other coastal resources.

D. Geologic Hazards and Site Stability.

1. Summary of LCP Provisions

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.

12 of 35

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 Section 3.4-8 states that:

Property owners should maintain drought-tolerant vegetation within the required blufftop setback. The County shall permit grading necessary to establish proper drainage or to install landscaping and minor improvements in the blufftop setback.

LUP Section 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 Section 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]

Zoning Code Section 20.500.010 states that development shall:

- (1) *Minimize risk to life and property in areas of high geologic, flood and fire hazard;*
- (2) *Assure structural integrity and stability; and*
- (3) *Neither create nor contribute significantly to erosion, geologic instability or destruction of the site or surrounding areas, nor in any way require the*

construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Zoning Code Section 20.500.020(B) states that:

Construction landward of the setback shall not contribute to erosion of the bluff face or to instability of the bluff.

2. Discussion

The parcel involved in the proposed residential development contains approximately 400 lineal feet of shoreline bluff atop the Little River Headlands along the north side of the mouth of Little River in west-central Mendocino County. The subject site occupies the eastern side of a rocky promontory that forms a dramatic southeast-facing cliff that drops roughly 65 feet to the ocean. Portions of the cliff face are pocked by surficial rock falls of apparent recent origin. At the base of the bluff, a series of sea caves or tunnels have formed beneath the southeastern portion of the parcel, with four openings appearing on the south and east sides of the headland. Approximately 30 feet of overlying bedrock and marine terrace deposits are between the roof of the caves and the top of the bluff.

The geotechnical information initially submitted with the project application to the County in March, 2001 (Earth Mechanics Consulting Engineers, August 23, 1993), was prepared as a preliminary assessment of stable building sites for generic residential development at the site (see Exhibit No. 8). The report concluded that structures could be placed as close as 20 feet from the bluff edge and constructed above the area of the sea tunnels, provided that the structures were supported on reinforced concrete grade beams and drilled piers extending into bedrock in conformance with the report recommendations.

In response to the Commission's request for additional geologic information, the applicants submitted two supplemental geo-technical analyses. The first, prepared by Earth Mechanics, revisited their 1993 recommendations and provided additional substantiation for the 20-foot bluff top setback. A second geotechnical investigation (BACE Geotechnical, November 14, 2001) concluded that the site was suitable for development of single-family-residential "critical structures" (i.e., human-occupied dwellings) with a bluff setback of 25 feet and spread-footing foundations, and "non-critical structures" (i.e., decks, spas, gazebos, etc.) with a 12½-foot setback. The geotechnical report goes on to state that the 25-foot setback is based on an erosion rate of one inch per year for 75 years, multiplied by a safety factor of four. The proposed residence is sited 25 feet from the bluff edge, five feet further landward than the recommendation of the Earth Mechanics report and at the minimum distance recommended by the BACE Geotechnical report.

Dr. Mark Johnsson, the Commission's staff geologist, has reviewed all of the submitted reports and, as discussed further below, concurs that the recommended 25-foot setback from the existing bluff edge is sufficient.

14 of 35

The relatively strong sandstone of the Franciscan formation has been observed to erode at long-term rates of between one and four inches per year, figures widely quoted in the scientific literature. In fact, little detailed work has been done in northern California and actual bluff retreat rates are poorly constrained. At the subject site, as for much of the Franciscan bluffs in Sonoma and Mendocino Counties, grain-by-grain erosion tends to be very slow. Erosion along fractures is more rapid, however, and results in the formation of fissures and sea caves. Bluff retreat occurs through sudden rock topples and failure of sea caves, arches, and other erosional features.

Given the slow grain-by-grain erosion that such strong sandstone exhibit, relatively smaller setbacks from erosional features such as bluff edges, eroding fissures, and sea caves can be considered adequate. From the data presented, Dr. Johnsson does not concur, however, that a long-term average bluff retreat rate of one inch per year is well-documented. Nevertheless, given the "factor of safety" of four that the applicant's geologist applies when recommending a 25 foot setback, Dr. Johnsson notes that the applicants' geologist is effectively guarding against bluff retreat rates as high as 4 inches per year, a value that is probably higher than the long-term average for this area. Even allowing for a 10-foot buffer to ensure that foundation elements are not actually undermined at the end of their economic life, a 25 foot setback is adequate given long-term bluff retreat rates of up to 2.4 inches per year. Given the nature of coastal erosion at this site, Dr. Johnsson indicates he believes such a setback is adequate.

An issue is raised, however, as to the amount of separation that should be provided between the proposed structures and the blufftop expression of the underlying sea caves. With respect to development in proximity to areas above the underlying sea caves, the BACE Geotechnical report first addresses the findings of previously prepared geotechnical analyses, stating in applicable part:

According to the Ballerino report, 'a small area above the tunnel exits was noted to have undergone a degree of settling. There appears to be a direct relationship between the tunnel and this slight settlement of the soil mantle. The indication is that fractures extend from the back of the tunnel up to the surface and constitute a zone of instability which is considered unsafe for building purposes. The block is not likely to slump suddenly, nor is it likely to undergo accelerated erosion of fall suddenly into the ocean, as there is still 30 feet of bedrock between the back of the tunnel and the surface above.'

According to the Ballerino report, the south portal of the sea cave ('tunnel') is the 'entrance' and the two portals facing the easterly inlet are the sea cave 'exits.' Therefore, the 'small area above one of the tunnel exits' must be above or between the east and northeast portals. Other than the rockfall area between the two portals, no ground surface depressions or other evidence of 'settling' was observed within the sea cave roof during our marine reconnaissance. Therefore, it appears the 'settling' observed by Ballerino was incipient movement of the terrace soils at the rock fall location. We conclude that the settling soils must have dropped away prior to BACE's investigation.

15 of 35

The BACE Geotechnical report goes on to conclude:

The 'A'-shaped cave roof has formed by erosion along an ancient, inactive fault trace. Since continued erosion along the this fault trace could lead to partial roof collapse, possibly prior to 75 years from now, an additional cave setback of five feet from the cave wall, is recommended. The cave setback need not apply to non-critical structures, as per above.

Notwithstanding the variety of data on which the geotechnical report's recommendations were founded (i.e., photogrammetric comparisons, *in situ* examination of cave conditions, exploratory borings), the Commission concludes that an issue of conformance with the standards of the LCP for assuring that adequate setbacks are provided from unstable areas would continue to exist should the development be constructed consistent with the recommendations of the geotechnical reports. At its closest point, the proposed house would be five feet from the blufftop projection of the back of the sea cave, in conformance with the minimum setback recommended in the BACE Geotechnical report. Although the five-foot setback has been recommended to presumably keep the structures out of the areas most prone to ground subsidence due to cave instability for the full economic life of the structures, the Commission notes that the efficacy of the five-foot width was not addressed. This five-foot-width is especially of concern given that the setback is less than the 6¼-foot setback ($1''$ per year bluff retreat rate \times 75 years = 75") prescribed for the bluff edge. Should the ground area above the sea cave collapse during the life of the structures, the recommended 5-foot setback would provide very little buffer between the structures and the bluff edge resulting after the collapse of the sea cave.

Dr. Johnsson confirms that the presence of the fault-formed sea caves is an important aspect of geologic stability at the subject site. Given the history of the subject site and adjacent areas, episodic bluff retreat in the form of rock fall is to be expected. In particular, the collapse of erosional features such as the sea cave on the site is to be expected. Sea caves are well recognized as erosional hazards to bluff top development, and the Commission has reviewed many applications for the construction of seawalls, revetments, and infilling of sea caves as a response to the threat posed by sea cave collapse (see, for example, permits granted in San Diego County for the infill of sea caves in dense sandstones similar to the subject site, such as F8915 [Phillips], F9143 [Seascape Shores], 6-96-102 [Solana Beach and Tennis Club Homeowners Association], 6-98-027 [O'Neal], 6-98-021 [Blackburn], 6-00-066 [Monroe and Pierce] and A-42-79-A1 [22-240 Associates]).

Although it is impossible to predict when the cave will fail, when it does the most landward portion of the cave will be the new bluff edge. If the cave were to collapse early in the lifetime of the development, it is important that a setback of appropriate width be maintained to provide assurance that no seawall or other shoreline protective devices would be needed over the lifetime of the development.

With respect to the likelihood of failure of the sea cave roof and the differing setback recommendations, Mr. Olsberg in his February 22, 2002 letter-report states:

16 of 35

Sinkholes with total roof collapse are a relatively rare phenomena. Although there are hundreds, if not thousands, of sea caves on the Sonoma and Mendocino coasts, BACE has observed only 4 or 5 sinkholes or blowholes with total roof collapse. In addition, BACE has observed several caves with small caves with small (a few feet across) open holes in the sides or roof. Sinkholes or blowhole development with total roof collapse is a long process that generally takes hundreds of years, as judged by BACE's observations over the last quarter of a century...

As stated on Page 8, 2nd Paragraph of BACE's report: 'The "A" shaped cave roof has formed along an ancient, inactive fault trace. Since continued erosion along this fault trace could lead to partial roof collapse, possible prior to 75 years from now, an additional cave setback of five feet from the cave wall is recommended.' The type of 'partial roof collapse...prior to 75 years from now' that is envisioned by BACE is shown on modified Cross Section A-A', Plate 12, attached to this letter. Based on this type of roof collapse, which could possible occur within the next 50 to 75 years, a 5-foot setback from the cave wall, as recommended in BACE's report should be adequate. Total roof collapse, as envisioned by Dr. Johnsson could take an additional several hundred years...

Many sites, if not most, on the Sonoma and Mendocino coasts have sea caves. BACE considers it very important (critical) that a geological / geotechnical investigation for coastal properties include a reconnaissance into the cave to see if the cave increases in size within, and whether significant erosion is occurring. For example, a sea cave that is a few feet high, which goes 30 feet into a bluff, where there is 60 feet of hard rock over the cave and no signs of accelerated erosion can be observed, is of little concern to BACE. While it is generally not desirable to build directly over a sea cave, there is no reason to apply a bluff edge setback to the inside of such a sea cave, as described. It is important to perform a specific evaluation for each cave.

The applicants' geologist, Eric Olsberg, CEG of BACE Geotechnical, requested that a site visit be scheduled to allow Dr. Johnsson to examine site conditions first-hand. On February 27, 2002, Dr. Johnsson and other Commission staff met with the current lot owner, Ms. Jill Roost, Mr. Olsberg, and agent Bud Kamb. A planned kayak excursion into the sea caves had to be cancelled due to the rough sea state, however Dr. Johnsson was able to rappel down the bluff face and inspect the caves from their openings. In addition, Dr. Johnsson and Mr. Olsberg took the opportunity to review other site conditions, including whether any surface failures on the bluff top above the caves was evident and the route and discharge point for roadside stormwater drainage. Mr. Olsberg also provided further written justification, dated February 22, 2002, for his recommended five-foot sea cave setback (see Exhibit No. 9).

Dr. Johnsson concurs with Mr. Olsberg that sinkhole formation on the blufftop previously observed in the Ballerino geological report were unfounded. Similar to Mr. Olsberg's conclusions, Dr. Johnsson reasons that the small depression on the blufftop was not related to

17 of 35

any subsidence caused by an appreciable amount of surface materials filtering through the inactive fault on which the cave is developed.

The Commission finds that the applicants' proposed 5-foot setback from the back of the sea cave to be inadequate and includes within Special Condition Nos. 1 and 2 requirements that a setback of 10 feet be provided between any structures and the blufftop projection of all underlying sea caves in addition to the required 25-foot-minimum setback from the existing bluff edge. The Commission finds that a setback larger than the 5-foot setback proposed by the applicants is necessary to find consistency with the policies of the LCP in that a proposed setback of only five feet would not provide an adequate buffer from bluff retreat should a portion of the sea caves collapse in the near future and the resulting bluff edge were to similarly retreat over the 75-year life of the structure at the one inch per year rate projected at the bluff face. A ten-foot setback would incorporate the approximately 6.25-foot setback the applicants' geologist identified would be necessary to deal with bluff retreat.

In addition, a ten-foot-wide area is generally considered the minimum width necessary to accommodate access by construction equipment around the perimeter of the structure should it become necessary to remove or relocate the house in the future in the event that sea cave collapse and subsequent bluff retreat from the new bluff edge were to threaten the house during the 75-year life of the structure. The Commission finds that it is appropriate to establish the beginning of the 10-foot sea cave setback at the blufftop projection of the rear wall of all underlying sea caves as this provides a consistent and discernable boundary from which to measure the setback.

Furthermore, the Commission notes that the LCP policies on bluff retreat do not require that a factor-of-safety be incorporated into the setback calculation and the applicants' geologist has not proposed such a factor of safety for the setback from the back of the sea cave. The applicants geologist did propose a factor of safety of four for the setback from the existing bluff edge and the Commission does concur that a total proposed setback of 25 feet from the existing bluff edges would be prudent. However, the fact that a similar factor-of-safety has not been proposed or required for the setback from the back of the sea cave does not mean the setback is inconsistent with the LCP, as again, the LCP policies on setbacks do not require that a factor of safety be built in. Moreover, given that the sea caves that lie in proximity to the building envelope for the structures have not yet collapsed and may not collapse for some time, an additional margin of safety from retreat of the bluff faces of any future-collapsed sea caves has been provided. Conversely, due to the ongoing and more direct coastal erosion actively occurring on the seaward edge of the bluff face, an analogous situation can not be concluded to exist at that location that would make the need for the multiple margin of safety unnecessary.

Thus, in summary, the Commission finds that a setback of ten feet from the landward backside of the sea cave walls in addition to the required 25-foot minimum setback from the existing bluff edge is necessary for the following reasons:

18 of 35

- A setback of ten feet from the bluff top projection of the back of any sea cave wall underlying the site would incorporate the approximately 6.25-foot setback the applicants' geologist identified would be necessary to deal with the bluff retreat being similarly experienced along the open shoreline should sea cave collapse and subsequent bluff retreat threaten the structure during its 75-year expected life; and
- Ten feet is the minimum necessary to accommodate access by construction equipment around the perimeter of the structure should it become necessary to remove or relocate the house in the future if sea cave collapse and bluff retreat were to threaten the house during the 75-year life of the structure.

With respect to the other site constraints that affect the feasibility of relocating site improvements to accommodate the additional 10-foot setback from the blufftop projection of the back of any sea cave walls underlying the site, RR-1 zone minimum front and side yard standards require that above-ground structures not be constructed within 6 feet and 20 feet from the property's west and north boundaries, respectively. In addition, within the deed for each of the Little River Headlands Subdivision lots are title Covenants, Conditions and Restrictions (CC&Rs) that require owners to maintain 30-foot front yard and 20-foot side yard areas clear of all above-grade structures. Thus, the proposed septic system leachfield and any needed runoff drainage field can be located within the front and side yard setbacks and still be consistent with the CC&Rs and Coastal Zoning Code requirements. Although the lot's available building area is constrained by the need to maintain these yard setbacks, the Commission finds additional area exists along the parcel's north side in which the proposed structures could be placed such that a larger sea cave setback could be provided. An area of approximately 125 feet longitudinally and 45 to 115 feet laterally landward of the proposed house site is available on the lot for building placement without encroaching into the front and side yard setbacks.

Some of the available space into which the structures could be further set back has been proposed as the locations for stormwater infiltration systems. Notwithstanding the need to develop required wastewater and drainage facilities, there is adequate area on the parcel to reconfigure the improvements to provide a 25-foot setback between proposed structures and the bluff edge, and an additional 10-foot setback between the proposed structures and the blufftop projection of the back of the sea caves, comply with zoning district and subdivision yard standards, and accommodate development of requisite wastewater and drainage facilities.

For example, it would be feasible to move the house and garage to meet the setback requirements in a manner that would not require moving the proposed and tentatively approved primary and reserve septic system areas should the applicants choose to do so. (Note: For additional information regarding sewage disposal location requirements, refer to Findings Section IV.C.2, above.) In such a case, the house could be relocated approximately 30 feet northerly to the north-central portion of the lot. The garage would also need to be similarly relocated to the north to clear area for the relocated residence and provide a minimum ten-foot separation between the structures, consistent with uniform building and fire codes adopted by the County. Similar reconfiguring would also be necessary for the proposed driveway. This reconfiguration would

also have the added benefit of reducing the amount of impervious surface by shortening the required length of the driveway needed for accessing the garage.

Such a relocation would necessitate removing one to two trees to the east of the house. Removing the trees would not have a significant adverse effect on views from public vantage points because as discussed in Visual Resources Findings Section IV.G.2, below, this portion of the lot where the trees exist is screened from view of the principal public vantage points. Although such a site plan may require clustering of the buildings greater than originally envisioned, area on the lot exists to relocate the proposed structures to accommodate a 25-foot sea cliff setback and an additional 10-foot sea cave setback, develop required sewage disposal systems consistent with County standards, and provide stormwater treatment facilities for roof and driveway runoff, while abiding by zoning district and subdivision setback standards.

The Commission also notes that should the applicants choose not to relocate the house and garage structures as currently designed in the manner discussed above, the applicants also have the option of meeting the geologic setback requirements by submitting a new house design that changes the structure footprints and elevations of the structures. Such a new design would require an amendment to the permit, as the Commission would need to evaluate whether any newly proposed design conforms with the other standards of the LCP, particularly the visual standards.

In order to approve the development currently proposed, the Commission must determine whether the proposed development would assure stability and structural integrity for the economic lifespan of the development.

LUP Policy 3.4-12 and Zoning Code Section 20.500.020(E)(1) allow the construction of shoreline protective devices only for the protection of existing development. The construction of a shoreline protective device to protect new residential development is not permitted by the LCP. Furthermore, as discussed below, the construction of a protective device to protect new residential development would also conflict with the visual policies of the certified LCP.

Therefore, the Commission finds that repositioning the buildings to more landward locations to provide a minimum 25-foot setback from the bluff edge and an additional 10-foot setback from the sea cave underlain areas is necessary for the project to conform to the requirements of Coastal Zoning Code Section 20.500.010 that development "*minimize risk to life and property in areas of high geologic, flood and fire hazard*" and "*assure structural integrity and stability.*" Therefore, the Commission attaches Special Condition No. 1. Special Condition No. 1 requires submittal of revised site plans showing the proposed residence and garage set back a minimum of 25 feet from the bluff edge and an additional ten feet from the blufftop projection of any underlying sea cave walls, thereby increasing the assurance of structural stability and integrity. Special Condition No. 1 also requires the permittee to construct the development consistent with the approved final plans.

In addition to the recommendations relating to setbacks, the BACE Geotechnical report also provides recommendations regarding site preparation, the construction of foundations, slabs,

grading, and drainage facilities to accommodate the geologic characteristics and hazards of the site. Special Condition No. 2 requires submittal of final foundation, construction, and site drainage plans that incorporate all recommendations of the initial geotechnical report intended to avoid creating a geologic hazard. Special Condition No. 2 also requires development to proceed consistent with the approved plans.

The Commission also attaches Special Condition No. 3, which prohibits the construction of shoreline protective devices on the parcel and requires that the landowner provide a geotechnical investigation and remove the house and its foundation if bluff retreat reaches the point where the structure is threatened, and that the applicant accepts sole responsibility for the removal of any structural debris resulting from landslides, slope failures, or erosion of the site.

These requirements are consistent with LUP Policy 3.4-7 and Section 20.500.010 of the Mendocino County Coastal Zoning Ordinance, which state that new development shall minimize risk to life and property in areas of high geologic, flood, and fire hazard, assure structural integrity and stability, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The Commission finds that the proposed development could not be approved as being consistent with Zoning Code Section 20.500.010 if projected bluff retreat would affect the proposed house and necessitate construction of a seawall to protect it.

The applicant is proposing to construct a new house. The house will be located on a ± 65 -foot-high bluff top that is eroding and underlain by sea caves. Thus, the house would be located in an area of high geologic hazard. The new development can only be found consistent with the above-referenced provisions if the risks to life and property from the geologic hazards are minimized and if a protective device would not be needed in the future. The applicant has submitted information from a geologist which states that if the new development is set back 25 feet from the bluff edge, the development would be safe from erosion and would not require any devices to protect the proposed development during its useful economic life. Similarly, the Commission finds that a 10-foot setback measured from the blufftop projection of any underlying sea caves must also be applied to the areas on the parcel underlain by sea caves so structures would be further safe-guarded from geologic hazards associated with catastrophic or incremental collapse of the materials above the sea caves.

Although a comprehensive geotechnical evaluation is a necessary and useful tool that the Commission relies on to determine if proposed development is appropriate at all on any given blufftop site, the Commission finds that a geotechnical evaluation alone is not a guarantee that a development will be safe from bluff retreat. It has been the experience of the Commission that in some instances, even when a thorough professional geotechnical analysis of a site has concluded that a proposed development will be safe from bluff retreat hazards, unexpected bluff retreat episodes that threaten development during the life of the structure sometimes still do occur. Examples of this situation include:

21 of 35

- The Kavich Home at 176 Roundhouse Creek Road in the Big Lagoon Area north of Trinidad (Humboldt County). In 1989 the Commission approved the construction of a new house on a vacant blufftop parcel (Permit 1-87-230). Based on the geotechnical report prepared for the project it was estimated that bluff retreat would jeopardize the approved structure in about 40 to 50 years. In 1999 the owners applied for a coastal development permit to move the approved house from the blufftop parcel to a landward parcel because the house was threatened by 40 to 60 feet of unexpected bluff retreat that occurred during a 1998 *El Niño* storm event. The Executive Director issued a waiver of coastal development permit (1-99-066-W) to authorize moving the house in September of 1999.
- The Denver/Canter home at 164/172 Neptune Avenue in Encinitas (San Diego County). In 1984 the Commission approved construction of new house on a vacant blufftop lot (Permit 6-84-461) based on a positive geotechnical report. In 1993, the owners applied for a seawall to protect the home (Permit Application 6-93-135). The Commission denied the request. In 1996 (Permit Application 6-96-138), and again in 1997 (Permit Application 6-97-90) the owners again applied for a seawall to protect the home. The Commission denied the requests. In 1998, the owners again requested a seawall (Permit Application 6-98-39) and submitted a geotechnical report that documented the extent of the threat to the home. The Commission approved the request on November 5, 1998.
- The Bennett home at 265 Pacific Avenue, Solana Beach (San Diego County). In 1995, the Commission approved a request to construct a substantial addition to an existing blufftop home (Permit 6-95-23). The minimum setback for the area is normally 40 feet. However, the applicants agreed to waive future rights to shore/bluff protection if they were allowed to construct 25 feet from bluff edge based on a favorable geotechnical report. The Commission approved the request on May 11, 1995. In 1998, a substantial bluff failure occurred, and an emergency permit was issued for a seawall. The follow-up regular permit (#6-99-56) was approved by Commission on May 12, 1999. On August 18, 1999, the Commission approved additional seawall and upper bluff work on this and several other properties (Permit #6-99-100).
- The McAllister duplex at 574 Neptune Avenue, Encinitas (San Diego County). In 1988, the Commission approved a request to construct a duplex on a vacant blufftop lot (Permit #6-88-515) based on a favorable geotechnical report. By October 1999, failure of the bluff on the adjoining property to the south had spread to the bluff fronting 574 Neptune. An application is pending for upper bluff protection (Permit #6-99-114-G).
- The Arnold project at 3820 Vista Blanca in San Clemente (Orange County). Coastal development permit (Permit # 5-88-177) for a blufftop project required protection from bluff top erosion, despite geotechnical information submitted with the permit application that suggested no such protection would be required if the project conformed to 25-foot blufftop setback. An emergency coastal development permit (Permit #5-93-254-G) was later issued to authorize blufftop protective works.

The Commission notes that the examples above are not intended to be absolute indicators of bluff erosion on the subject parcel, as coastal geology can vary significantly from location to location. However, these examples do illustrate that site specific geotechnical evaluations cannot always accurately account for the spatial and temporal variability associated with coastal processes and therefore cannot always absolutely predict bluff erosion rates. Collectively, these examples have helped the Commission form it's opinion on the vagaries of geotechnical evaluations with regard to predicting bluff erosion rates.

The BACE geotechnical report states that their geological and engineering services and review of the proposed development was performed in accordance with the usual and current standards of the profession, as they relate to this and similar localities, stating, "No other warranty, expressed or implied, is provided as to the conclusions and professional advice presented in the report." This language in the report itself is indicative of the underlying uncertainties of this and any geotechnical evaluation and supports the notion that no guarantees can be made regarding the safety of the proposed development with respect to bluff retreat.

Geologic hazards are episodic, and bluffs that may seem stable now may not be so in the future. Therefore, the Commission finds that the subject lot is an inherently hazardous piece of property, that the bluffs are clearly eroding both at its margins and underneath the landform, and that the proposed new development will be subject to geologic hazard and may someday require a bluff or shoreline protective device, inconsistent with Zoning Code Section 20.500.010. Based upon the geologic report prepared by the applicant and the evaluation of the project by the Commission's staff geologist, the Commission finds that the risks of geologic hazard are minimized if the residence is set back 25 feet from the bluff edge and an additional ten feet from the back wall of any underlying sea caves.

However, given that the risk cannot be eliminated and the geologic report does not assure that shoreline protection will never be needed to protect the residence, the Commission finds that the proposed residence is consistent with the certified LCP only if it is conditioned to provide that shoreline protection will not be constructed. Thus, the Commission further finds that due to the inherently hazardous nature of this lot, the fact that no geology report can conclude with any degree of certainty that a geologic hazard does not exist, the fact that the approved development and its maintenance may cause future problems that were not anticipated, and because new development shall not engender the need for shoreline protective devices, it is necessary to attach Special Condition No. 3 requiring a deed restriction prohibiting the construction of seawalls and Special Condition No. 4 requiring a deed restriction waiving liability.

As noted above, some risks of an unforeseen natural disaster, such as an unexpected landslide, massive slope failure, erosion, etc. could result in destruction or partial destruction of the house or other development approved by the Commission. In addition, the development itself and its maintenance may cause future problems that were not anticipated. When such an event takes place, public funds are often sought for the clean up of structural debris that winds up on the beach or on an adjacent property. As a precaution, in case such an unexpected event occurs on the subject property, the Commission attaches Special Condition No. 3(A)(2), which requires the landowner to accept sole responsibility for the removal of any structural debris resulting from

23 of 35

landslides, slope failures, or erosion on the site, and agree to remove the house should the bluff retreat reach the point where a government agency has ordered that the structure not be occupied.

The Commission finds that Special Condition No. 3 is required to ensure that the proposed development is consistent with the LCP and that recordation of the deed restriction will provide notice of potential hazards of the property and help eliminate false expectations on the part of potential buyers of the property, lending institutions, and insurance agencies that the property is safe for an indefinite period of time and for further development indefinitely into the future, or that a seawall could be constructed to protect the development.

Additionally, the Commission attaches Special Condition No. 4, which requires the landowner to assume the risks of extraordinary erosion and geologic hazards of the property and waive any claim of liability on the part of the Commission. Given that the applicants have chosen to implement the project despite these risks, the applicant must assume the risks. In this way, the applicant is notified that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires the applicant to indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand hazards. In addition, the condition ensures that future owners of the property will be informed of the risks, the Commission's immunity from liability, and the indemnity afforded the Commission.

The Commission notes that Section 30610(a) of the Coastal Act and Chapter 20.532 of the County's Coastal Zoning Code exempt certain additions to existing single family residential structures from coastal development permit requirements. Pursuant to this exemption, once a house has been constructed, certain additions and accessory buildings that the applicant might propose in the future are normally exempt from the need for a permit or permit amendment.

However, in this case because the project site is located within a highly scenic area, future improvements to the approved project will not be exempt from permit requirements pursuant to Section 30610(a). Section 30610(a) requires the Commission to specify by regulation those classes of development which involve a risk of adverse environmental effects and require that a permit be obtained for such improvements. Pursuant to Section 30610(a) of the Coastal Act, the Commission adopted Section 13250 of Title 14 of the California Code of regulations. Section 13250 specifically authorizes the Commission to require a permit for additions to existing single family residences that could involve a risk of adverse environmental effect. For example, installing a landscape irrigation system on a blufftop property in a manner that leads to saturation of the bluff could increase the potential for landslides or catastrophic bluff failure.

Another example would be installing a sizable accessory structure for additional parking, storage, or other uses normally associated with a single-family home in a manner that does not provide for the collection, conveyance, and discharge of roof runoff to areas away from the bluff edge. Such runoff to the bluff edge could potentially exacerbate bluff erosion at the subject site. In addition, Section 13250(b)(1) indicates that improvements to a single-family structure in an area designated as highly scenic in a certified land use plan involve a risk of adverse environmental effect and therefore are not exempt. As discussed previously, the entire subject

24 of 35

property is within an area designated in the certified Mendocino Land Use Plan as highly scenic. Therefore, pursuant to Section 13250(b)(1) of the Commission's regulations, future improvements to the approved development would not be exempt from coastal development permit requirements and the County and the Commission would have the ability to review all future development on the site to ensure that future improvements will not be sited or designed in a manner that would result in a geologic hazard.

Finally, as regards the provisions of LUP Policy 3.4-8 that property owners should maintain drought-tolerant vegetation within the required blufftop setback, no site development, including grubbing or clearing for building sites has been proposed within the 25-foot-wide blufftop setback areas (or within the required additional 10-foot-wide sea cave setback) for which revegetation would be necessary. These areas are currently covered with grass and sod that should continue to provide protection to the blufftop edge from the erosive forces of rainfall and runoff.

The Commission thus finds that the proposed development, as conditioned, is consistent with the policies of the certified LCP regarding geologic hazards, including LUP Policies 3.4-7, 3.4-8, 3.4-9, 3.4-12, and Zoning Code Sections 20.500.010 and 20.500.020, as the development will not result in the creation of any geologic hazards, will not have adverse impacts on the stability of the coastal bluff or on erosion, and the Commission will be able to review any future additions to ensure that development will not be located where it might result in the creation of a geologic hazard. Only as conditioned is the proposed development consistent with the LCP policies on geologic hazards.

E. Stormwater and Drainage.

1. LCP Provisions

LUP Section 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.

Coastal Zoning Code Section 20.500.020(B)(3) states that:

Construction landward of the setback shall not contribute to erosion of the bluff face or to instability of the bluff.

2. Discussion

On September 13, 2001, the Commission found that the filed appeal raised a substantial issue of the County-approved project's conformance with the geologic stability and drainage standards of the certified LCP as relate to the treatment of stormwater runoff. As revised by the applicants for purposes of the *de novo* hearing, the proposed development includes the construction of

stormwater runoff treatment facilities comprised of a leachfield-based infiltration basin for building rooftop rainfall drainage, and a percolation drain field for sheetflow runoff from the proposed paved driveway. These drainage facilities are intended to intercept stormwater runoff that would flow toward the erosion-prone blufftop edge and direct it where the runoff can be absorbed into the ground underlying the more stable areas on the northern portion of the parcel. Preventing drainage from flowing over the bluff edge where it could contribute to erosion of the bluff face is consistent with the requirements of LUP Policy 3.4-9 and CZC Section 20.500.020(B)(3).

After reviewing all of the evidence pertaining to drainage and geologic hazards contained in the local record, the Commission finds that, as conditioned, the proposed development with the inclusion of stormwater drainage treatment facilities will not contribute to the erosion of the bluff face or to the instability of the bluff itself. Further, the proposed drainage facilities were evaluated in a supplemental geotechnical review prepared by BACE Geotechnical, dated November 14, 2001. BACE Geotechnical concluded that the proposed drainage improvements to collect, divert and discharge the runoff over the more stable portions of the lot would reduce potential bluff edge erosion while having minimal adverse impact on the site stability. The report bases this conclusion on the site conditions, the geologist's observations, and the relatively low bluff retreat rate on the site.

As discussed further in Findings Section IV.C.2 above, the project permit has been conditioned upon providing a greater geologic setback between the proposed structures and the blufftop projection of the underlying sea caves. This requirement may necessitate relocation of the residence and garage into areas proposed for the drainage treatment works. Notwithstanding this intrusion, there is adequate remaining space within the northern portion of the parcel for developing the rooftop runoff leachfield and driveway infiltration areas. Furthermore, the required relocation of the residential structures toward the road frontage of the parcel would effectively shorten the required length of the driveway, reducing the amount of impervious surface requiring water quality treatment measures. To ensure that the necessary drainage improvements are redesigned to accommodate the revised arrangement of development under the revised site plan required by Special Condition 1(A)(1), the Commission includes within Special Condition No. 1 the requirement that a revised erosion and runoff plan be submitted for the review and approval of the Executive Director. The condition allows for several design options to provide flexibility for dealing with site constraints including allowing a driveway runoff absorption area as originally proposed that is redesigned to account for the topographical differences of the new location, developing combined or separate leachfield treatment systems for the roof and driveway runoff, and allowing for the driveway to be constructed with a permeable gravel surface to avoid the need for treatment of runoff from the driveway.

Given the assurances of the geotechnical evaluation that: (a) development of the proposed drainage improvements within the northern portion of the project parcel would have minimal adverse impact on the bluff stability; and (b) adequate geologically stable area exists within this portion of the lot to accommodate relocation of the facilities in association with reconfiguration of the building sites, the Commission finds that development of the drainage treatment facilities as conditioned, and the resulting rerouting of the drainage from the parcel is consistent with the

26 of 35

provisions of LUP Policy 3.4-9 and Zoning Code Section 20.500.020(B)(3) that proposed development shall be constructed so as to ensure that surface and subsurface drainage does not contribute to the erosion of the bluff face or to instability of the bluff.

Therefore, the Commission finds that, as conditioned, the proposed development is consistent with LUP Policy 3.4-9, and with Zoning Code Section 20.500.020(B)(3), because Special Condition Nos. 1 and 2 of this permit will ensure that the approved site drainage modifications are installed and will not contribute to the erosion of the bluff face or the instability of the bluff.

F. Public Access and Recreation.

1. Coastal Act Access Policies

Projects located between the first public road and the sea and within the coastal development permit jurisdiction of a local government are subject to the coastal access policies of both the Coastal Act and the LCP. Coastal Act Sections 30210, 30211, and 30212 require the provision of maximum public access opportunities, with limited exceptions. Section 30210 states that maximum access and recreational opportunities shall be provided consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. Section 30211 states that development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. Section 30212 states that public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, adequate access exists nearby, or agriculture would be adversely affected.

2. LCP Provisions

The Mendocino County LUP includes a number of policies regarding standards for providing and maintaining public access. Policy 3.6-9 states that offers to dedicate an easement shall be required in connection with new development for all areas designated on the land use plan maps. Policy 3.6-28 states that new development on parcels containing the accessways identified on the land use maps shall include an irrevocable offer to dedicate an easement.

LUP Policy 3.6-27 states:

No development shall be approved on a site which will conflict with easements acquired by the public at large by court decree. Where evidence of historic public use indicates the potential for the existence of prescriptive rights, but such rights have not been judicially determined, the County shall apply research methods described in the Attorney General's 'Manual on Implied Dedication and Prescriptive Rights.' Where such research indicates the potential existence of prescriptive rights, an access easement shall be required as a condition of permit approval. Development may be sited on the area of historic public use only if:

(1) no development of the parcel would otherwise be possible, or (2) proposed development could not otherwise be sited in a manner that minimizes risks to life and property, or (3) such siting is necessary for consistent with the policies of this plan concerning visual resources, special communities, and archaeological resources. When development must be sited on the area of historic public use an equivalent easement providing access to the same area shall be provided on the site.

Note: This policy is implemented verbatim in Section 20.528.030 of the Coastal Zoning Code

3. Discussion

In its application of the above policies, the Commission is limited by the need to show that any denial of a permit application based on this section, or any decision to grant a permit subject to special conditions requiring public access is necessary to avoid or offset a project's adverse impact on existing or potential access.

The subject site is located within a locked-gate subdivision west of the first public road and sits atop a steep coastal bluff. The County's land use maps do not designate the subject parcel for public access, and there does not appear to be any safe vertical access to the rocky shore down the steep bluffs. According to the County, there is no evidence of public prescriptive use of the subject site, and so the County did not instigate a prescriptive rights survey. Since the proposed development would not significantly increase the demand for public access to the shoreline and would have no other significant adverse impacts on existing or potential public access, the Commission finds that the proposed project, which does not include provision of public access, is consistent with the public access policies of the Coastal Act and the County's LCP.

G. Visual Resources.

1. Summary of LCP Provisions

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 3.5-3 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:

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 area 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.

Coastal Zoning Ordinance Section 20.504.015 states, in applicable part:

- (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 feet (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.*

29 of 35

- (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...*
- (7) *Minimize visual impacts of development on terraces by the following criteria: (a) avoiding development in large open areas if alternative site exists; (b) Minimize the number of structures and cluster them near existing vegetation, natural landforms or artificial berms...*
- (10) *Tree planting to screen buildings shall be encouraged, however new development shall not allow trees to interfere with coastal/ocean views from public areas...*

2. Discussion.

The proposed development includes an 18-foot-high, 2,550-square-foot single-family residence, with a detached, 625-square-foot garage. The development is located in the Little River Headlands Subdivision, a gated residential community situated north of the unincorporated town of Little River. The property lies within a designated highly scenic area along the western side of Highway One. The subject site lies in a grassy opening on an uplifted coastal terrace headland with scattered tree and shrub cover that slopes gently toward the bluffs.

Due to its location on a private road closed to non-residents, no views to and along the ocean from the project site are available to the public. Further, due to intervening development and landforms, and the presence of roadside vegetation, the site is visible in the distance to motorists traveling northbound on Highway 1 for an approximate one-second duration at the posted speed limit along the stretch of highway descending to Little River Beach south of the entrance to Van Damme State Park. Consequently, there are only limited views through the site from Highway One as it passes to the east of the subject site. Portions of the site are, however, visible from the southerly portions of public beach south of the Little River mouth within Van Damme State Park. In addition, portions of the site are visible from various locations in nearshore and offshore waters.

As a one-story structure at the proposed 18-foot maximum height, the development would be consistent with the visual resource protection policies and maximum height standards of LUP Policy 3.5-3, and CZO 20.504.015(C)(2).

Furthermore, as required to be relocated to provide adequate setbacks from geologically unstable areas, the building sites for the proposed developments would: (a) avoid placement within open areas on the terrace; (b) be situated both near the edge of a wooded area; and (c) be clustered near existing vegetation consistent with CZC Sections 20.505.015(C)(5) and (7).

30435

With respect to the protection of views to and along the coast, as illustrated on the site's public visibility study map (see Exhibit No. 13), development of the proposed above-grade structures in the locations proposed by the applicants has the potential to adversely affect such views. To mitigate these potential impacts, the applicants have proposed to install landscaping along the eastern side of the parcel, consisting of one Japanese black pine (Pinus thunbergiana), two shore pines (Pinus contorta), and three coast silk-tassel trees (Garrya elliptica) (see Exhibit No. 4).

With relocation of the house and garage as required by Special Condition No. 1, the proposed structures will be moved to an area where they would not be as visible from Highway One and Little River Beach. Although portions of the house would continue to be visible from nearshore and offshore waters, the visual impact of the relocated house from the water would be limited as most of the length of the house in its north-south orientation extending away from the bluff edge would not be visible, leaving only the relatively narrow 40-foot width of the house within view. With the required relocation of the development, only a small portion of the proposed landscaping would ~~not~~ be needed to mitigate visual impacts. As relocated, the house and garage would continue to be near a wooded area on the west side of the property, consistent with the requirements of LUP Policy 3.5-4 and Coastal Zoning Code Sections 20.504.015(C)(5) and 20.504.015(C)(7)(b). In addition, by relocating the structures as required by Special Condition No. 1, the project would protect views to and along the coast consistent with LUP Policies 3.5-1, 3.5-3, and CZC Section 20.504.015.

As regards the new development being subordinate to the character of its setting, other homes, landforms, and existing vegetation will mute the appearance of the residence from those vantage points in the ocean. As the headland where the project is located is interspersed with trees, the development would blend into the visual setting of the project. Furthermore, the portions of the development that would be visible from the beach and ocean would be similar to existing one- and two-story single-family residential development within the Little River Headlands Subdivision. Therefore, for all of the above reasons the development would be both compatible with the surrounding area and subordinate to the character of its setting consistent with LUP Policies 3.5-1, 3.5-3, and CZC Section 20.504.015.

However, the development's building materials must be found to blend in hue and brightness with its surroundings. The applicants' agent has indicated that the exterior of the residence and garage would be horizontal wood siding painted with Sherwin-Williams™ "Canoe" (SW 2043), a dark tan hue. The roofs would be covered with asphalt-fiberglass singles of a charcoal-gray color. To ensure that the colors of the exterior surfaces of the proposed house will be compatible with the character of the area, the Commission attaches Special Condition No. 5. This condition imposes design restrictions, including a requirement that all exterior siding and roofing of the proposed structure shall be of natural or natural-appearing materials of dark earthtone colors only, such as that chosen by the applicants; that all exterior materials, including the roof and the windows, shall be non-reflective to minimize glare; and that all exterior lights, including any lights attached to the outside of the house, shall be low-wattage, non-reflective, and have a directional cast downward.

The condition further requires that a deed restriction be recorded to ensure that future buyers of the property will be notified that the choice of permissible colors of the structure is limited to better ensure that the development is not painted an inappropriate color in the future that would not be consistent in brightness and hue with its surroundings. These requirements will ensure the project is consistent with the provisions of Coastal Zoning Code Sections 20.504.010 and 20.504.035(A)(2).

The Commission also attaches Special Condition No. 3, which requires recordation of a deed restriction stating that the landowner shall not construct any bluff or shoreline protective devices to protect the residence, garage, septic system, or other improvements in the event that these structures are subject to damage, or other natural hazards in the future. This condition will ensure that in the future, no seawall will be constructed that would have significant adverse impacts on visual resources.

As noted in Findings Section IV.F.2 above, the comment letter submitted by Dr. Hillary Adams (see Exhibit No. 15) contends that a gravel driveway surface may be more in keeping with the character of the surrounding area than would a paved driveway. The Little River Headlands is comprised of a mixture of single-family residences, some served by gravel driveways, others with paved driveways. Furthermore, the driveway will be screened from all public vantage points by the approved structures on the site and intervening development and topographical features and vegetation. Moreover, driveways by themselves do not dictate the overall character of the surrounding area. Rather, the area's character is dictated by the particular combination of natural and built environmental elements found there, including terrain, landforms, vegetation, as well as its structures. Accordingly, given the significant reduction in the length of the driveway needed to serve the development resulting from the required relocation of the residential structures, the presence of other homes with paved driveways in the project's vicinity, and the fact that the driveway will be screened from view from public vantage points, the Commission finds the proposal for a paved driveway to be consistent with the provisions of LUP Policy 3.5-1 that require permitted development be visually compatible with the character of surrounding areas.

In conclusion, the visual resource impacts of the development have been minimized by a combination of existing site conditions, the design of the structures, the inclusion of landscaping within the project, and by the attachment of special conditions to the project approval. The project site is inherently visually obscured by its location within a gated community and the presence of interposed vegetation and landforms that conceal it from most public vantages, especially given the requirement that the approved structures be relocated to meet the geologic setback requirements of Special Condition No. 1. The proposed height for the structures will not exceed the maximum height established in the LCP for highly scenic areas. These factors in conjunction with lighting restrictions will further protect views to and along the coast, ensure compatibility with surrounding areas, and assure that the development would be subordinate to the character of its setting. In addition, by requiring relocation of the structures outside of geologically hazardous areas on the parcel into the more vegetated and wooded portions of the lot, impacts to open terrace areas will be minimized. Further, in requiring dark earthtone colors for the structure, the development's building materials will blend in hue and color with those of

32 of 35

its surroundings. Additionally, the special condition requiring a waiver of any rights to construct shoreline protection structures will ensure that a seawall that would dominate the appearance of the bluff will not be constructed in the future.

Therefore, the Commission thus finds that the proposed development, as conditioned, is consistent with LUP Policies 3.5-1, and with Zoning Code Sections 20.376.045, 20.504.010, and 20.504.035.

H. California Environmental Quality Act (CEQA).

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

The Commission incorporates its findings on conformity with LCP policies at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed herein, in the findings addressing the consistency of the proposed project with the certified LCP, the proposed project has been conditioned to be found consistent with the County of Mendocino LCP and the access and recreation policies of the Coastal Act. Mitigation measures which will minimize all adverse environmental impacts have been made requirements of project approval. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

V. EXHIBITS:

1. Regional Location Map
2. Vicinity Map
3. Excerpt, Land Use Plan Map No. 17 – "Mendocino"
4. Site Plan, House and Garage Elevations, Floor Plans, Landscaping Plan
5. Notice of Final Local Action
6. Appeal, filed July 19, 2001 (Weikel)
7. Required Setbacks for Sewage Disposal Systems
8. Excerpts, Geotechnical Assessments

33 of 35

9. BACE Geotechnical Letter-report, dated February 22, 2002
10. Stormwater Drainage Calculations and Plan (Excerpts)
11. Site Visibility Study Map
12. Review Agency Correspondence
13. General Correspondence

ATTACHMENT A:
STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director of the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

35 of 35

UKIAH OFFICE

301 LOW GAP ROAD, ROOM 1326
UKIAH, CA 95437
(707) 463-4466
FAX (707) 463-4038

HAZARDOUS MATERIALS
(707) 463-5221

**FORT BRAGG OFFICE**

700-A1 S FRANKLIN STREET
FORT BRAGG, CA 95437
(707) 961-2711
FAX (707) 961-2720

COUNTY OF MENDOCINO
DEPARTMENT OF PUBLIC HEALTH
DIVISION OF ENVIRONMENTAL HEALTH

January 21, 2003

Bob Schlosser
Leventhal & Schlosser, Architects
435 N Main Street
Fort Bragg CA 95437

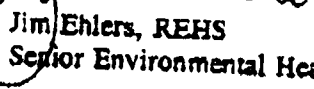
Bud Kamb, Land Use Consultant
PO Box 616
Little River, CA 95456

RE: Roost Residence
45501 Headlands Drive, Little River

Dear Sirs:

I have reviewed the latest revision of the Rainwater Collection and Dispersal System, prepared by David Duncan, C.E., for the Roost residence. The Division of Environmental Health can issue a clearance for this design.

Sincerely,


Jim Ehlers, REHS
Senior Environmental Health Specialist

JE:sh

EXHIBIT NO. 9

APPLICATION NO.

A-1-MEN-043-A1

ROOST
REVIEW AGENCY
CORRESPONDENCE
(1 of 5)

Memorandum

To: Bob Schlosser, Leventhal Schlosser, Architects
From: Jim Ehlers, DEH, Ft. Bragg
Date: 12/20/2002
Re: Roost Residence, 45501 Headlands Dr., Little River CA

I have just completed my review of the rainwater collection and disposal system for the residence cited above. Due to the proximity of the disposal system and the replacement are for the approved septic system my comments are as follows:

1. If the decision is made to keep the rainwater collection and disposal system as designed by David Duncan, CE, DEH will require the owner to have a ground water mounding study completed. The ground water mounding calculations will evaluate the possible detrimental effects of the rainwater dispersal system on the septic system. Ground water mounding models can be investigated in the RAMCIT STUDY, available at the local DEH office.
2. The rainwater collection and disposal system can be replaced by a system which would pump the rainwater to the frontage roadside ditch.
3. The water from the hot tub should not be pumped to either system described in number 1 or 2 above. DEH recommends a leach rock filled pit, approximately 3'x3'x3' in the vicinity of the hot tub. When the hot tub is drained, it should be drained into this pit at a rate which does not allow water to flow over the top and out of the pit.



RAYMOND HALL
DIRECTOR

COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES

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

RECEIVED

OCT 11 2002

CALIFORNIA
COASTAL COMMISSION

TELEPHONE
(707) 964-5379

Date Submitted: September 23, 2002

LCP #04-02

LCP CONSISTENCY REVIEW FORM

This form is to be completed by the Mendocino County Planning Department and submitted to the California Coastal Commission in lieu of Appendix B as part of a Coastal Development Permit application.

1. **Owner/Applicant:** Ken and Jill Roost
2151 Oaks Drive
Hillsborough, CA 94010

Agent: Bud Kamb
P.O. Box 616
Little River, CA 95456

2. **Project Description:** Amend Coastal Development Permit #A-1-MEN-01-043. The original permit authorized the following:

Construction of a 2,550-square-foot, 18-foot-high, single-family residence with a 625-square-foot detached garage, onsite sewage disposal system, extension of utilities, and installation of 2,500-square feet of paving for a driveway.

Amend the existing permit in the following manner:

Construction of a 3,594-square-foot, 18-foot-high, single family residence with a 643-square-foot attached garage, onsite sewage disposal system, extension of utilities, and installation of 2,200-square feet of paving for a driveway. The modification also includes the addition of fencing, a driveway gate and a propane storage tank.

3. **Project Address:** 45501 Headlands Drive, Little River
4. **Assessor's Parcel Number(s):** 121-260-10
5. **LCP Designation:** Rural Residential, RR5(1)

Existing Zoning: Rural Residential, RR: L-5 [RR: L-1]

6. **California Environmental Quality Act (CEQA)/ Project Status:** Categorically Exempt, Class 3(a)

3 of 5

7. Local Coastal Plan Consistency:

Mendocino County Coastal Element: The primary applicable policies for the proposed project are contained in Section 3.4 of the Coastal Element pertaining to "Hazards Management" and Section 3.5 which prescribes development criteria for projects located within designated "Highly Scenic Areas."

Land Use/Zoning: In accordance with Section 20.376.045 of the Coastal Zoning Code, the height of the proposed structure 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. Setbacks shall conform to the provisions set forth in Chapter 20.376.030(A) & 20.376.035(A) of the Coastal Zoning Code.

The site plan does not identify the location of the 4'-6" driveway gate. If the gate is located within the 20-foot front yard setback, it shall not exceed 3'-6" per Section 20.444.015(E) of the Coastal Zoning Code.

Visual Resources: The proposed project site is located within a designated "Highly Scenic Area" west of Highway One and shall adhere to the development criteria set forth in Chapter 20.504 of the Mendocino County Coastal Zoning Code and the policies contained in Section 3.5 of the Mendocino County Coastal Element.

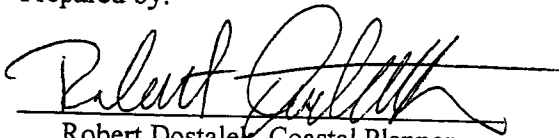
The increase in the overall size (or bulk) of the residence should be re-analyzed for potential visual impacts from public view areas. Contingent on the extent of the project's visibility, additional landscaping (or other viable visual mitigation) may be warranted.

The height and extent of the proposed fencing may significantly contribute to the project's overall visibility from public view areas. The proposed fencing should be analyzed for consistency with the aforementioned visual resource policies. *Note: for the purpose of height calculation and visual analysis, the "6-foot tall" portions of the fence, as identified in the plans, would measure 7'-9" and would appear as such.*

Hazards: The applicant shall comply with the blufftop development standards contained in Chapter 20.500 of the Coastal Zoning Code.

The proposed fencing may be located within the required geotechnical setback and should be analyzed accordingly.

Prepared by:


Robert Dostalek, Coastal Planner

10-7-02
Date

cc: Coastal Commission
file

445

RECEIVED

September 13th 2002

SFP 16 2002

Jill E. Roost
2151 Oaks Drive
Hillsborough, CA 94010

CALIFORNIA
COASTAL COMMISSION

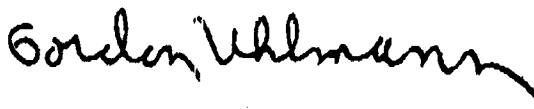
Dear Jill and Ken,

Please be advised that the Architectural Control
Committee of Little River Headlands has approved
your plans.

We all warmly welcome you as our new neighbor.

Sincerely,

Gordon Uhlmann



cc Nancy Lofstedt
John Frank

545